

***United States Court of Appeals
for the Second Circuit***



APPENDIX

77-1307

United States Court of Appeals

FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

Appellee,

—against—

HARVEY S. MEYERS,

Defendant-Appellant.

B
PJS

APPENDIX

(Volume II — Pages 325A - 629A)

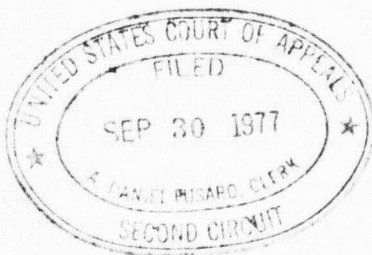
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1 jojw

301

2 It is stipulated and agreed by and between
3 the United States and the defendant, Harvey Meyers, that
4 each of the checks which are Government Exhibits 10, 11,
5 12 and 13, were negotiated through the Chase Manhattan
6 Bank as per the endorsements which appear on the back of
7 each of the checks.

8 Is that correct, Mr. Gallop?

9 MR. GALLOP: Yes.

10 MR. JOSSEN: Government calls Sidney
11 Buchbinder.

12
13 S I D N E Y B U C H B I N D E R , called as
14 a witness by the government, being first duly
15 sworn, testified as follows:

16 DIRECT EXAMINATION

XXXX

17 BY MR. JOSSEN:

18 Q Mr. Buchbinder, how are you employed?

19 A I am the technical advisor to the regional
20 council of the Internal Revenue.

21 Q How long have you been so employed?

22 A For more than ten years.

23 Q Would you tell us generally what your
24 responsibilities are in your position as the technical
25 advisor?

1 jpjw Buchbinder - direct 302

2 A Generally to review the special agents'
3 reports and to make computation for criminal purposes.

4 Q Now, prior to the time that you worked
5 as technical advisor to regional council, how were you
6 employed?

7 A I was an Internal Revenue agent.

8 Q What were your responsibilities in that
9 position?

10 A Generally to audit individual partnerships
11 and corporate returns.

12 THE COURT: I am going to take a recess
13 at this time, members of the jury. When you withdraw
14 to the jury room, don't discuss the case.

15 (Jury left the courtroom)

16 THE COURT: I would like to take an offer
17 of proof as to this witness. I won't necessarily require
18 Mr. Buchbinder unless one of the attorneys thinks he
19 ought to.

20 MR. JOSSEN: Your Honor, Mr. Buchbinder
21 is going to testify as to computations he performed on
22 the basis of his examination of various records which are
23 exhibits in the case. To identify a chart which the
24 government has prepared contrasting the reported liability
25 of the defendant on his original tax returns with that

1 jpjw Buchbinder - direct 303
2 which the government contends is the proper tax liability
3 should it be declared.
4 Mr. Buchbinder has examined the tax returns.
5 He has examined the Forms 600 as well as the commission
6 bill settlement statements. He has also examined the
7 \$25,000 Fernandez loan and on the basis of that has
8 computed the figures of what the corrected liability
9 should have been.
10 THE COURT: You don't have to have any
11 expertise to do that. That could be done by anybody.
12 I think the chart may be admissible if it is accurate and
13 I think Mr. Gallop should have a moment or two to look
14 at the chart if he hasn't already seen it.
15 You don't need to have this man's expertise
16 to make those computations. That's something the jurors
17 can do.
18 MR. JOSSEN: With respect to certain
19 aspects of his computations, maybe Mr. Gallop will be
20 able to concede that Mr. Buchbinder is an expert.
21 MR. GALLOP: I will stipulate the chart
22 in evidence.
23 MR. JOSSEN: I would like to have Mr.
24 Buchbinder explain the manner in which he prepared the
25 chart.

jpjw

Buchbinder - direct

304

THE COURT: He can explain but I don't want it to appear that criminality is being decided by expert testimony.

We will be in recess briefly.

(Recess)

(In open court - jury present)

THE COURT: You may resume.

DIRECT EXAMINATION CONTINUED

BY MR. JOSSEN:

Q Mr. Buchbinder, in the course of your responsibilities as technical advisor to the regional council, have you had occasion to work regularly with the Internal Revenue Service Code?

A Yes, I have.

Q Have you had occasion to testify as an expert witness in any trials?

A Yes, I did.

Q In how many such trials have you testified as an expert witness?

A Approximately 80 to 85 cases.

Q Mr. Buchbinder, I show you what has previously been received in evidence as Government Exhibits 1 and 2.

Have you had an opportunity to examine those documents prior to your testimony here today?

jpjw

Buchbinder - direct

305

1

2

A Yes, I did.

3

4

Q I show you what have previously been received
in evidence as Government Exhibits 19, 20, 21 and 22.

5

6

Have you had an opportunity to review each
of those exhibits prior to your testimony here today?

7

A Yes, I did.

8

9

10

Q I show you what have previously been
received in evidence as Government Exhibits 11 and 12
and Government Exhibit 9-A.

11

12

Have you had an opportunity to review each
of those exhibits prior to your testimony here today?

13

A Yes, I did.

14

15

16

17

Q Now, Mr. Buchbinder, on the basis of all
the exhibits which are before you in your review of those
exhibits, have you had an opportunity to compute the tax
liability with respect to Mr. Marvey Meyers tax returns?

18

A Yes, I did.

19

20

21

22

Q Have you had an opportunity to make a
comparison between the tax liability as actually reported
and that which the exhibit suggests should have been
reported?

23

A Yes, I did.

24

25

Q I show you, Mr. Buchbinder, what we have
marked as Government Exhibit 26 for identification and

1 jpjw Buchbinder - direct 306

2 ask you if you had an opportunity to examine that chart?

3 A Yes, I did. This I did not make the chart,
4 but the figures, I did make the figures.

5 Q Did you perform the various computations
6 which are reflected on the chart?

7 A Yes, I did.

8 MR. JOSSEN: I offer it in evidence.

9 MR. GALLOP: No objection.

10 (Government Exhibit 26 received
11 in evidence)

12 THE COURT: Do I understand, Mr. Buchbinder,
13 that everything on here was compiled from one or more of
14 these exhibits that are already in evidence?

15 THE WITNESS: That's correct, your Honor.

16 Q Now, Mr. Buchbinder, would you come off the
17 witness stand for a moment and would you please explain
18 to the jury your computations for the year 1971 and 1972
19 as they appear on the chart which is Government Exhibit
20 26 in evidence.

21 THE WITNESS: May I leave the chair, your
22 Honor?

23 THE COURT: If it is necessary. Is it
24 necessary to stand down there? If you want to stand down,
25 you may do so.

jpjw

Buchbinder - direct

307

A The first line is gross receipts as reported on Schedule C, which is attached to the income tax return. Line No. 1 of the Schedule C, this is what is on the actual tax return.

The total gross receipts based on Form 600, which I believe is in evidence, and the commission bill settlement statements.

The total gross receipts based on Form 600 is \$119,112.89. And on the commission bill settlement statements it is \$119,114.10.

Now, this is what should have been reported on the tax return.

In the unreported gross receipts using the difference between this and this will give you this figure for the unreported gross receipts for the Form 600 and using the same \$89,750 to \$119,114.10, will give you this unreported gross income figure on the commission bill settlement statements.

Now, tax liability is computed on taxable income. So, taxable income as reported, this is per the tax return. \$21,587. The corrected taxable income would be this figure plus this figure plus an amount of \$487, which is as a result of when you increase adjusted gross income under tax return, then you accordingly decrease the

1 jpjw Buchbinder - direct 308

2 amount of the medical expenses. That is what the \$487
3 represents. A decrease in the medical expenses.

4 So, we come now to corrected taxable income
5 of \$51,438.10.

6 The tax liability as reported on the tax
7 return is \$4,888. The tax liability that should have
8 been reported based on joint rates, joint rates --
9 joint return rates were used, based on this figure of
10 \$51,438.10. It is \$17,779.05. The deficiency is the
11 difference between these two figures for the year 1971.

12 Q Now, Mr. Buchbinder, just so that it is
13 clear:

14 In the 1971 income tax return as filed,
15 was there a medical deduction taken on the Schedule AB?

16 A Yes, there was.

17 Q The adjustment that appears of \$487 is
18 based on the increase of the adjusted gross income?

19 A That's correct.

20 Q Would you explain to us your computations
21 for the year 1972?

22 A Now, basically, the format is the same for
23 1972 as it is for 1971.

24 This is line 1 of Schedule C as attached
25 to the income tax return. This is the gross receipts

1 jpjw Buchbinder - direct 309
2 which should have been reported based on Form 600. This
3 is the gross receipts which should have been reported
4 based on the commission bill settlement statements.
5 The difference between this and this figure is this
6 figure, unreported gross receipts, based on the Form 600.
7 The difference between this and this for this figure is
8 the unreported gross receipts based on the commission
9 bill settlement statements. This is taxable income
10 as reported per the tax return.

11 This is what it should have been. This
12 represents this plus this, plus \$25,000. The \$25,000 is
13 a loan which was deducted in 1971 as a business bad debt
14 which was fully recovered in 1972 and which is added
15 back to income.

16 So, we have corrected taxable income of
17 \$134,304.20. The tax liability as reported is \$18,254.
18 The tax liability that should have been reported which
19 I computed using what we call the maximum tax on earned
20 income, this is a special form which gives the taxpayer
21 a better tax break.

22 Now, this tax figure is \$18,254.93. The
23 deficiency is the difference between this and this. That's
24 for the year 1972.

25 Q Would you please resume the witness stand.

 Now, Mr. Buchbinder, in your computations,

1 jpjw Buchbinder - direct 310

2 is it correct that the inclusion of the \$25,000 into
3 corrected taxable income for 1972 is required by virtue
4 of the fact that that amount had been deducted in 1971?

5 A Well, it is required because of the fact
6 that the taxpayer got a tax benefit in 1971. As a result
7 of that since he recovered the tax benefit, he should
8 report it in 1972.

9 Q Now, can you tell us, Mr. Buchbinder, whether
10 there is a difference between a business bad debt and a
11 personal bad debt?

12 A A business bad debt can be deducted dollar
13 for dollar. In other words, it can be deducted if you
14 have a \$10,000 business bad debt and you have a \$20,000
15 salary, then you can offset the \$10,000 against the
16 \$20,000 and report just \$10,000 as your income.

17 Whereas, as a non-business bad debt, there
18 is a limitation on that. A non-business bad debt is
19 considered on Schedule C as a short term capital loss
20 and there is a limitation on this deduction to the
21 extent of \$1,000 a year.

22 Q And that is filed on schedule what?

23 A D.

24 Q Now, Mr. Buchbinder, if a taxpayer had
25 deducted a bad debt in one year, regardless of whether he

1 jpjw Buchbinder - direct 311
2 treated it as a business bad debt or as a non-business
3 bad debt and thereafter recovered that money in the next
4 year, is it correct that that amount would have to be
5 declared as income in the following year, to the extent
6 that the taxpayer had achieved a benefit from the
7 deduction in the prior year?

8 A That's correct.

9 Q Is it correct then that a business bad
10 debt is in general more favorable to a taxpayer than a
11 non-business bad debt?

12 MR. GALLOP: I will object to that question.

13 THE COURT: I will sustain that question
14 as to the form of the question. He may bring out what
15 circumstances or under what circumstances one is more
16 favorable than the other.

17 Q Mr. Buchbinder, can you tell us under
18 what circumstances a treatment of a debt as a business
19 bad debt as opposed to a non-business bad debt would be
20 more favorable to a taxpayer, if any?

21 A Well, a business bad debt, as I said before,
22 could be deducted dollar for dollar against other income.
23 Whereas a non-business bad debt cannot be deducted that
24 way.

25 MR. JOSSEN: I have no further questions

jpjw

Buchbinder - direct/cross

312

of the witness, your Honor.

THE COURT: You may cross examine.

CROSS EXAMINATION

BY MR. GALLOP:

Q Just one question, Mr. Buchbinder.

Your computation is based upon the figures that you gleaned out of the particular documents which are placed into evidence, is that correct?

A That's correct.

Q You have no independent knowledge of any of the facts in this case, is that correct?

A That's correct.

Q And you are not passing on any judgment as to whether the \$25,000 is a business debt or a personal debt; is that correct?

A That's correct.

Q And nothing you have said in any way is supposed to imply that you are passing any judgment here as to whether or not a crime has been committed?

A That's correct.

Q You are just doing the arithmetic for us?

A Yes, sir.

1 jpjw

2 MR. GALLOP: No further questions.

3 MR. JOSSEN: No further questions, your
4 Honor.

5 MR. GALLOP: May I approach?

6 THE COURT: Yes, certainly.

7 (At the side bar)

8 MR. GALLOP: I would like to have an
9 instruction to the jury explaining to them that the
10 chart is nothing special and it is still within the
11 jury's province to consider or reject anything that the
12 chart contains.

13 THE COURT: I will instruct not in quite
14 those terms but I will tell them it is a compilation.

15 (In open court)

16 THE COURT: Members of the jury, in
17 connection with this chart, I wish to instruct you
18 according to the testimony of the last witness, the
19 chart is merely a compilation from data contained in
20 other exhibits in evidence in the case and the fact
21 that the chart was made or the fact that it is a chart,
22 entitles it to no greater weight in your minds than the
23 underlying documents from which the chart was compiled.
24 You have to consider whether the underlying documents
25 justify any inferences which may have been employed in

1 jpjw

2 making the chart and the weight of the chart will depend
3 upon the weight assigned to the underlying evidence.

4 MR. JOSSEN: Your Honor, if I might, I
5 would announce one other stipulation to the jury.

6 It is stipulated and agreed by and between
7 the United States and the defendant, Harvey Meyers, that
8 the signatures on Government Exhibits 1 and 2 with the
9 name Harvey Meyers are in fact the signatures of the
10 defendant Harvey Meyers.

11 Is that correct?

12 MR. GALLOP: That is correct.

13 MR. JOSSEN: Your Honor, the government
14 rests.

15 THE COURT: At this time, members of the
16 jury, will you withdraw briefly to the jury room and
17 don't discuss the case.

18 (Jury left the courtroom)

19 THE COURT: Might I ask, what showing
20 have you made, Mr. Jossen, about the venue. I asked you
21 about that earlier.

22 MR. JOSSEN: Your Honor, the tax returns
23 were actually prepared in the Southern District at Ernst &
24 Ernst.

25 THE COURT: It is the subscribing that's

1 jpjw

2 the crime.

3 MR. JOSSEN: It seems to me the act of
4 evasion is covered by the preparation of the return itself.
5 In addition to that, the defendant conducted business
6 in the Southern District and that would be sufficient
7 too.

8 THE COURT: Well, I thought you had to
9 either subscribe the return or file it where the case
10 is tried.

11 MR. JOSSEN: Your Honor, it is my under-
12 standing that venue is provided by any district in which
13 the taxpayer carries out business, any district in which
14 the return is prepared, any district in which the return
15 is filed.

16 THE COURT: You might give me a citation
17 on that point at your convenience.

18 MR. GALLOP: Your Honor, I will make a
19 motion to dismiss Counts 1 and 2 on the grounds that the
20 government has failed to make out a prima facie case.

21 THE COURT: Well, I think there is enough
22 evidence if the inferences sought to be drawn are drawn
23 to warrant a finding as to either or both of those counts.

24 I will deny the motion accordingly.

25 How long will you be with what you have?

1 jpjw

2 MR. GALLOP: I will probably be with
3 cross examination less than an hour probably. I have
4 one witness.

5 THE COURT: Fine. We will take about
6 five minutes and then we will proceed on the defendant's
7 case.

8 Do you foresee any rebuttal case?

9 MR. JOSSEN: I think there will probably
10 be a stipulation which will obviate the need for a rebuttal
11 case.

12 THE COURT: Discuss it with counsel.

13 (Recess)

14 (In open court - jury present)

15 THE COURT: Mr. Gallop, you may go forward
16 on behalf of the defendant at this time.

17 MR. GALLOP: I call Maria Meyers to the
18 stand.

19
20 M A R J A M E Y E R S , called as a
21 witness by the defendant, being first duly
22 sworn, testified as follows:
23
24
25

XXXX

1

JPjw

M. Meyers - direct

317

2

DIRECT EXAMINATION

3

BY MR. GALLOP:

4

Q

Mrs. Meyers, are you married to Harvey

5

Meyers?

6

A

Yes, sir.

7

Q

When did you get married?

8

A

In 1964.

9

Q

And you have two children?

10

A

Yes.

11

Q

What are their names?

12

A

Alexandra who is eleven and Shantel is six.

13

Q

Did you originally -- where were you born?

14

A

In Cuba.

15

Q

And did there come a time that you moved

16

to Puerto Rico?

17

A

Excuse me?

18

Q

Did there come a time when you moved to

19

Puerto Rico?

20

A

When we moved to Puerto Rico?

21

Q

Yes.

22

A

When Castro took over in 1960.

23

Q

Was there a family business in 1964?

24

A

We lived in Florida for a few months and

25

then my father moved to Puerto Rico in 1961 and we moved

jpjw

M. Meyers - direct

318

at the beginning of 1962. My father started a business in Puerto Rico in 1971. I don't remember the exact date.

Q I see.

Did that business continue up to today?

A Yes, sir.

Q Is that business Frozens, Inc.?

A Well, a few corporations, that was one of them.

Q That was one of them.

Do you have any interest in any of those businesses in Puerto Rico?

A Right now after my father died, no.

Q Now, when you married Mr. Meyers, did you continue to live in Puerto Rico?

A No, we moved right away to New York.

Q Have you lived in New York since then?

A Until 19 -- I'm sorry, I don't remember. About a year and a half we moved to New Jersey and then we moved to New York.

Q In 1971 and 1972 you lived in New York?

A Right.

Q Now, what is your education, Mrs. Meyers?

A Well, I went to school in Cuba. I went to a Catholic school and I studied up to high school. Then

1 jpjw

M. Meyers - direct

319

2 I went to Washington to a Catholic school, Georgetown
3 Visitation for a year and a half. Then I returned to
4 Cuba. After that, I don't remember if a year later,
5 a few months later, we got out.

6 Q I see.

7 Georgetown Visitation, was that a college?

8 A It is a junior college.

9 Q Did you ever work in the family business?

10 A Yes, for about I guess a year when we
11 first arrived in Puerto Rico.

12 Q What type of work did you do?

13 A Typing and answering the telephone,
14 other things and when the shipment arrived, that kind of
15 things.

16 Q Did you ever help your husband with any
17 of his recordkeeping?

18 A In the very beginning he started to change
19 I did everything. After a while when the first child
20 was born, I keep helping him and for a few years after
21 that and right now I almost don't do anything because
22 the children are older and I have more things to do.

23 Q When you say you did everything, would you
24 be more specific. You are familiar with items called
25 pink slips?

1 jpjw

M. Meyers - direct

320

2 A Yes, sir.

3 Q Can you explain what they are?

4 A Well, every month if he billed for example
5 ten firms, whatever amount of firms, each firm you make
6 a pink slip with the name of the firm and the amount of
7 money that you did for that firm. That goes to the
8 Stock Clearing Corporation. It used to be like that.
9 I understand now the whole Exchange changed.

10 Q What did you do?

11 A I used to do it years ago. Right now I
12 understand it is different and I don't do that kind of
13 thing now. I put the pink slip in the individual envelopes
14 and they were taken to the Stock Clearing Corporation
15 and once a month all the pink slips returned with --
16 you say a main check, with one check for the total amount.

17 Q I see.

18 Is there anything you wrote on any of the
19 pink slips? Did you write on them?

20 A Yes. I put the name of the company and
21 the total of the month.

22 Q Now, when it came to the preparation of
23 Mr. Meyers tax return, did you assist him in any way?

24 A Yes, sir.

25 Q Now, specifically, with regard to the year

1 jpjw M. Meyers - direct 321

2 1971, did you help Mr. Meyers with regard to the prepara-

3 tion of his tax return?

4 A Yes, sir.

5 Q I show you Government Exhibit 7 in evidence

6 and I ask you if you can identify this document.

7 A Sure, I did this.

8 Q Is that in your handwriting?

9 A Yes.

10 Q Did you prepare that document?

11 A Yes.

12 Q Can you tell us how you prepared it?

13 A Well, I prepared the document with the

14 help of my husband and he dictated the figures. Then I

15 added the pink slips. But I had two slips here.

16 Q Stay with this document. In your handwriting,

17 there are various items which are numbered.

18 A Right.

19 Q Then there is an amount next to them?

20 A Yes.

21 Q Is that also in your handwriting?

22 A Yes.

23 Q Now, how did you get these?

24 A Through the checks, the canceled checks.

25 Q Did you go through the canceled checks?

1 jbjw M. Meyers - direct 322

2 A Yes, we put whatever classification they

3 were.

4 Q Did you total the canceled checks?

5 A Yes.

6 Q There is an adding machine tape which is

7 attached to this?

8 A Yes. That's the pink slips.

9 Q This adding machine tape which is attached

10 to this?

11 A This would be the total amount of this.

12 Q Did you run an adding machine tape to total

13 the amount that is on that sheet?

14 A Yes.

15 Q Is that the adding machine tape?

16 A Yes, I think so. It has to be. Let me

17 see.

18 Q If you want, look it over, take your time.

19 A Yes, sir.

20 Q And you ran that tape on your adding

21 machine, is that correct?

22 Now, did you prepare any other documents

23 with respect to the 1971 tax return?

24 A I remember in 1971.

25 Q First answer my question, yes or no?

1 jbjw M. Meyers - direct 323

2 A Yes.

3 Q What other documents do you recall preparing?

4 A I don't remember exactly because it has been

5 many years. But I remember in '71 I make a big tape, I

6 make two tapes, a short tape and a long tape.

7 The reason I make a short tape I remember

8 very well because of the length of the tape. I had a

9 phone call and I ripped the tape.--

10 Q Let me ask you the questions.

11 A I'm sorry.

12 Q Okay.

13 Is this one of the tapes you are referring

14 to?

15 A Yes, sir. I have another short tape with

16 this.

17 Q Did you prepare this tape?

18 A Yes, sir.

19 Q When did you prepare this tape?

20 A When?

21 Q When.

22 A What date?

23 Q Do you recall when, was it before -- was

24 this in preparation of the tax returns when you were

25 preparing for the tax returns?

jpjw

M. Meyers - direct

324

2 A Yes, because we wait for everything to come
3 back from the bank.

4 Q Do you recall when this was approximately?

5 A When the banks returned these things back,
6 what is that February, January? Whatever.

7 Q The bank statements you are referring to?

8 A The green things, the bank statements.

9 Q You were waiting for the bank statements
10 to come back and then you would start preparing them?

11 A Yes, sir.

12 Q Now, you say you prepared another tape in
13 addition to this tape.

14 A A shorter one.

15 Q Can you tell us why you prepared two tapes?

16 A Because I had a phone call and I took the
17 tape off the machine and I put it next to me. I make
18 the long tape and I said to myself, it doesn't matter
19 what happens, this tape is going to be finished today.

20 I made a few mistakes and a few times I
21 took the tape out until the whole tape came out. That's
22 why I remember the length of the tape. I remember I had
23 two tapes, a short one and a long one.

24 Q With regard to this tape, you say you did
25 this several times?

1 jpjw

M. Meyers - direct

325

2 A At the beginning because I make mistakes.

3 Q Now, how did you compile --

4 A What does that mean?

5 Q How did you get the figures to put on this
6 tape?7 A From on the pink slip, they are not pink,
8 they are just red and white but they call them pink.9 THE COURT: Would you state the number
10 of that exhibit, please?

11 MR. GALLOP: Exhibit 4.

12 Q In other words, you would have a pile --

13 A I had a pile of pink slips and I put it in
14 different piles and I add it up.

15 You know, I never do it the same way.

16 Q You say you prepared another tape.

17 A A shorter one I prepare first.

18 (Defendant's Exhibit Q marked
19 for identification)

20 Q Is this the other tape you are referring to?

21 A Yes, sir.

22 MR. GALLOP: At this time I will offer
23 Q for identification.24 MR. JOSSEN: May I be permitted a voir
25 dire at this time, your Honor?

xxx

jpjw

M. Meyers - direct

326

THE COURT: Yes, sir.

VOIR DIRE EXAMINATION

BY MR. JOSSEN:

Q Mrs. Meyers, are there any identifying marks on Defendant's Exhibit Q which show exactly what that tape is for?

A I'm sorry, I don't understand the question.

Q Is there any writing on Defendant's Exhibit Q which shows exactly what the tape is for? Other than the numbers themselves?

A How do I know this tape --

Q That's not my question. Please listen to my question.

Is there any writing on Defendant's Exhibit Q other than the numbers themselves?

A I'm sorry, I don't understand your question.

Q Is there any writing of any sort on Defendant's Exhibit Q?

A In the tape?

Q In the tape itself?

A Any handwriting on this one?

Q Yes.

A No.

Q Is there any date on that tape?

1 jpjw M. Meyers - direct 327

2 A No.

3 Q Do you recall the specific pink slips that

4 you were using when you prepared the tape?

5 A 1971.

6 Q Well, do you recall the specific amounts

7 on those pink slips?

8 A You mean the amount of pink slips I had

9 with me?

10 Q Well, let's take first the amount of money

11 that appeared on those pink slips.

12 A In each pink slip?

13 Q Yes.

14 A If I remember the amount of money?

15 Q Yes.

16 A How can I remember the amount of money on

17 each pink slip. It is five years ago.

18 Q Do you remember the number of pink slips?

19 A No. For heaven's sake, I don't have an

20 elephant's memory, how can I remember that so long ago?

21 Q On Government's Exhibit 4 in evidence,

22 there is some handwriting.

23 A Yes, and you know why? I can give you the

24 right answer.

25 I put it like this and I wrapped it around

1 jpjw M. Meyers - direc 328
2 the whole bunch of pink slips. My husband probably
3 saw the tape like this and wrote on the last part. But
4 this is not my department. Because if I say --

5 MR. JOSSEN: Your Honor, I will move to
6 strike the last answer.

7 THE COURT: Well, I will let the answer
8 stand. Let's move on.

9 Q You prepared other tapes, have you not, Mrs.
10 Meyers?

11 A That year?

12 Q Yes.

13 A I may have made out a few checks, piles of
14 checks.

15 Q You prepared other checks since that year,
16 have you not?

17 A Yes, I prepared the '72, sir.

18 Q What was the make of the adding machine
19 that you used to make the tape?

20 A To tell you the truth, I had the old
21 iron machine. I realized I made a mistake because I
22 bought a new one at the beginning of 1972, right. But
23 since I had the tapes in '72, because I wait for all the
24 bank statements to come back, I had a new machine and it
25 was a green Olivetti, electrical one. Where I prepared

jpjw

M. Meyers - direct

329

these tapes and the '72 tapes. Before that I had another machine.

Q It was what machine, what machine did you prepare these tapes on?

A In an Olivetti.

Q What was the color of the machine?

A Dark green, bluish.

Q Dark green.

Now, it is your testimony that you prepared Defendant's Exhibit Q and Government's Exhibit 4 at the same time; is that correct?

A Yes, sir.

MR. JOSSEN: Your Honor, I object to the admissibility of Defendant's Exhibit Q.

THE COURT: Members of the jury, would you step out of the courtroom while I hear argument on this issue.

(Jury left the courtroom)

THE COURT: Would you hand both tapes to the clerk, please.

What is the basis for the objection?

MR. JOSSEN: Your Honor, I submit that there is no basis to authenticate this particular tape which is Defendant's Exhibit Q. The tapes themselves bear

1 jpjw M. Meyers - direct 330
2 on their face no apparent relationship to one another.
3 They are not dated --
4 THE COURT: You take your seat.
5 What do you think this is?
6 THE DEFENDANT: I apologize. I didn't
7 know I was not supposed to walk up there, sir.
8 THE COURT: All right.
9 It seems to me the witness has identified
10 the tape by saying she made it at or about the time
11 when she was totaling the pink slips.
12 MR. JOSSEN: Your Honor, there is simply
13 nothing on the tapes which is Defendant's Exhibit Q to
14 give any basis as to why that cannot be any tape that
15 came from an adding machine prepared at any time at all.
16 THE COURT: That's a matter for the jury,
17 isn't it? The witness has testified under oath that she
18 made the tape from pink slips after 1971. That is
19 sufficient, isn't it?
20 I think that's an adequate foundation.
21 MR. JOSSEN: I don't believe it is for
22 identifying that specific tape.
23 THE COURT: That's what she says it is.
24 If you want to lay a further foundation, I will permit
25 Mr. Gallop to do it.

1 jpjw

M. Meyers - direct

331

2 Bring the jury back, please. That's what
3 I thought she testified to. If there is any question
4 about whether that's what the record contains, I will
5 hear you further on it.

6 MR. JOSSEN: No, your Honor, I believe
7 you stated accurately the substance of the testimony.

8 THE COURT: All right. I will overrule
9 the objection.

10 (In open court - jury present)

11 THE COURT: I will overrule the objection
12 and I will receive Exhibit Q in evidence.

13 (Defendant's Exhibit Q received
14 in evidence)

xxx

15 DIRECT EXAMINATION CONTINUED

XXX

16 BY MR. GALLOP:

17 Q Mrs. Meyers, you say you prepared Govern-
18 ment's Exhibit 7 and you prepared Exhibits Q and Govern-
19 ment Exhibit 4, these two tapes when you were preparing
20 the information for the accountants; is that right?

21 A Yes, sir.

22 Q Do you recall any other information that
23 you prepared for the 1971 return?

24 A You mean any other tape?

25 Q Yes.

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M. Meyers - direct

332

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1 jpjw

M. Meyers - direct

333

2 Q Yes.

3 A The date, the name of the firm, I stamped
4 this with a rubber stamp and the amount.5 Q Now, what did you do with regard to those --
6 withdrawn.7 Are these the pink slips that you used to
8 compile these tapes?

9 A Yes, sir.

10 MR. GALLOP: I offer Exhibit P-3 in
11 evidence.

12 MR. JOSSEN: No objection.

13 THE COURT: Received in evidence.

14 (Defendant's Exhibit P-3 received
15 in evidence)

xxx

16 Q If you can, tell us what you did with the
17 tapes and the pink slips after you made the tape?

18 You then put a rubber band around it?

19 A I don't know but I guess that's the only
20 way to hold it.

21 Q You don't recall?

22 A I'm almost positive.

23 Q Now, for 1971, Mr. Meyers has a diary
24 that is in evidence, I think it is marked 24.

25 Did you prepare this tape?

1 jpjw M. Meyers - direct 334

2 A No, sir.

3 Q Now, going to the year 1972, did you assist

4 your husband in the preparation of his records for his

5 1972 tax return?

6 A Yes, sir.

7 Q That would be at the beginning of 1973?

8 A Right.

9 Q Now, I show you Defendant's Exhibit A in

10 evidence.

11 Can you identify the handwriting on this

12 exhibit?

13 A That's my husband's handwriting.

14 Q I see.

15 Did you prepare the tape attached to it?

16 A Yes, sir.

17 Q I show you Exhibit P --

18 MR. GALLOP: May I approach?

19 (At the side bar)

20 MR. GALLOP: It is marked for identification

21 but I specifically recall, your Honor, that it was

22 admitted into evidence.

23 THE COURT: All right. I think that is

24 correct.

25 (In open court)

jpjw

M. Meyers - direct

335

1
2 Q I show you Exhibit P in evidence and ask
3 you if you can tell us what these items are?

4 A With every month, the what do you call
5 them?

6 Q The bank statements?

7 A Right.

8 Q I show you Exhibit N for identification
9 and I ask you if you can identify this item.

10 A I took this from the deposits.

11 Q Is that an adding machine tape?

12 A This, yes.

13 Q Did you make that adding machine tape?

14 A Yes.

15 Q From what did you compile that adding
16 machine tape?

17 A From the bank statement.

18 Q From the bank statements? And there is
19 handwriting on the top of it.

20 A That's my handwriting.

21 Q Would you please read what it says.

22 A Total deposits 1972.

23 MR. GALLOP: I offer Exhibit N in evidence.

24 MR. JOSSEN: No objection.

25 THE COURT: Received.

jpjw

M. Meyers - direct

336

(Defendant's Exhibit N received

in evidence)

Q Now, do you recall how the bank statements were when you were preparing them for the accountants?

A How was each --

Q Were they in envelopes or were they like they are together?

A I think they were in each individual envelope.

Q Did you place Exhibit N anywhere with regard to the bank statements? Do you recall what you did with Exhibit N?

A Yes, I put them on top of the envelope.

Q Did you put a rubber band around it or something?

A Yes.

Q Just so we understand and I know you have some difficulty.

In other words, there was an envelope for each statement?

A Twelve statements. Right the same way they come from the bank every month.

Q On top of the twelve envelopes you put the tape and put a rubber band around it?

A Yes, we take the checks out and leave the

1 jpjw M. Meyers - direct 337

2 statement inside the envelope.

3 Q It was just the statement in the envelope,

4 the checks were no longer in the envelopes?

5 A No, because we compile the checks in a

6 different category.

7 Q I show you Defendant's Exhibit D for

8 identification and I ask you if you can identify these

9 documents.

10 A The pink slips.

11 Q From what year are those pink slips?

12 A '72.

13 Q Now, look at the handwriting on that.

14 Did you write any of those pink slips?

15 A No, sir.

16 Q I show you Exhibit C for identification

17 and I ask you if you can identify that document.

18 A That's from the pink slips.

19 Q That the tape you ran from the pink slips?

20 A Yes. The amount of each company, the twelve

21 months and sometimes there are not twelve months because

22 sometimes --

23 Q Is that the tape that you compiled?

24 A Yes.

25 MR. GALLOP: I offer Exhibit D and Exhibit C

1 jpjw M. Meyers - direct 338
2 in evidence.

3 MR. JOSSEN: Might I ask just one or two
4 questions?

5 THE COURT: Voir dire?

6 MR. JOSSEN: Yes.

7 VOIR DIRE EXAMINATION

XXX 8 BY MR. JOSSEN:

9 Q Mrs. Meyers, do you see the handwriting
10 next to the numbers on Exhibit C?

11 A Yes.

12 Q Is that in your handwriting?

13 A Yes.

14 MR. JOSSEN: I have no objection.

15 THE COURT: Received in evidence.

16 (Defendant's Exhibits D and C received
17 in evidence)

XXXX 18 DIRECT EXAMINATION CONTINUED

XXX 19 BY MR. GALLOP:

20 Q Mrs. Meyers, you prepared Exhibit C
21 differently than you prepared the tape for 1971; is that
22 correct?

23 MR. JOSSEN: Objection to the leading, your
24 Honor.

25 THE COURT: It is leading and it really

1 jpjw

M. Meyers - direct

339

2 does not mean anything. Frame another question.

3 Q How did you prepare Exhibit C?

4 A How do I prepare this?

5 Q Yes.

6 A With the pink slips.

7 Q Did you break them down in any way?

8 A By the twelve months of the year. Some of
9 them are twelve, some of them can be three. Do you know
10 what I am trying to say?

11 Q There is writing on the side.

12 A Yes, that is the name of the firm.

13 Q The name of the firm.

14 Does that correspond in any way to the pink
15 slips?

16 THE COURT: What is the question?

17 MR. GALLOP: I will rephrase the question.

18 THE COURT: Maybe it can be stipulated to.

19 Q The pink slips are broken down into groups,
20 is that correct?

21 A Right.

22 Q What type of groups are they broken down
23 into?

24 A By companies.

25 Q Is each group total on a separate little

1 jpjw

2 tape? Look at the front. There is a tape on the front.

3 A These you mean?

4 Q Yes.

5 A They should.

6 Q Did you run a little tape group for each
7 one and then total all the small groups?

8 A Yes.

9 Q Mrs. Meyers, you now know this figure is
10 incorrect, is that correct?

11 A Yes.

12 Q Do you know how you made the mistake?

13 A Because the L.F. Rothchild account, I only
14 add -- how do you say -- one slip. I forgot to add the
15 other one. When I gave the other tape with the whole
16 amount, these should see the difference.

17 Do you know what I am trying to say?

18 Q Do you mean -- are you talking about --

19 A If I miss --

20 Q When you talk about the other tape?

21 A The total amount of the bank statements.

22 Q With regard to the bank statements tape?

23 A In the bank statement I give the whole
24 amount. If there was any mistake in the pink slips --

25 Q Is this the Exhibit N, is that what you are

1 jnjw

M. Meyers - direct

2 talking about?

3 A Yes.

4 Q And you understood this to be the whole
5 amount?

6 A That's what I did it from the bank statements,
7 so it has to be correct.

8 Q The bank statement, is this your personal
9 family bank account or is this your husband's business
10 account?

11 A We only have one account, my husband and I.

12 Q The checking account?

13 A Yes.

14 Q Do all of his business checks go into this?

15 A Yes, sir.

16 Q And the deposits in here are the checks
17 that he received when the pink slips came back?

18 A Yes, sir.

19 Q Is that why you totaled that also for the
20 accountant?

21 A Yes, sir.

22 Q With regard to 1972, Mrs. Meyers, do you
23 recall what other documents you prepared for the account-
24 ants?

25 A Like I asked you before, I probably put

1 jpjw
2 checks that we separated in files depending upon the
3 different things.

4 Q Did you make an adding machine tape for
5 those?

6 A We usually take each amount of checks with
7 the tape of the adding machine.

8 Q Now, when you compiled -- withdraw that
9 question.

10 Going back to 1971, did you keep the
11 documents that you worked on for the preparation of the
12 tax return?

13 A What do you mean?

14 Q Where did you keep them?

15 A In the desk.

16 Q Did you ever put them anywhere, did you
17 ever send them anywhere?

18 A When I finished?

19 Q Yes.

20 A Yes. I put everything in a big manila
21 envelope, a yellow envelope or any kind of big envelope.
22 Usually it is that color because that's the kind I buy
23 and I put everything inside.

24 Q Now, did you do the same for 1972?

25 A I always do the same thing.

1 jpjw M. Meyers - direct 343

2 Q Now, just to clarify something.

3 Did you help your husband prepare the
4 1970 returns?

5 A Probably I did, I don't remember.

6 Q For that did you have a different adding
7 machine?

8 A I'm sure because the new one I looked for
9 the canceled checks and I bought it in January of 1972.
10 So, I had to have an old one for that machine.

11 THE COURT: I think I will suspend for
12 the day at this time.

13 Members of the jury, our scheduling is
14 such that we can resume at 10:15 tomorrow morning. Please
15 assemble at that time. You may withdraw for the day.

16 Keep an open mind and don't discuss the
17 case.

18 (Jury left the courtroom)

19 THE COURT: I will be in recess until
20 tomorrow morning.

21 (Adjourned to May 4, 1977 at 10:15

22 a.m.)

23

endday

24

25

1 JPjw

2 UNITED STATES OF AMERICA

3 v.

77 Cr. 227

(CLB)

4 HARVEY S. MEYERS

5
6 May 4, 1977
7 10:15 A.M.

8 Trial Resumed

9 (In open court - jury present)

10 THE COURT: Mrs. Meyers, you may return
11 to the stand.

12 M A R I A M E Y E R S , resumed.

13 THE COURT: Good morning members of the
14 jury.

15 Mr. Gallop, you may resumed.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. GALLOP:

18 Q Mrs. Meyers, I believe yesterday I was
19 asking you about the adding machine that you used to
20 prepare these tapes.

21 A Yes, sir.

22 Q Do you recall when you purchased that
23 adding machine?

24 A Yes. In the beginning of '72, I believe it
25 was January.

XXX

1 jpjw

M. Meyers - direct

2

MR. GALLOP: May I have this marked for

3

identification.

4

(Defendant's Exhibit R marked

xxxx

5

for identification)

6

Q I show you a check and a receipt from Ajax

7

Typewriter Corp.

8

I ask you can you identify the check and

9

the receipt?

10

A Yes, I was the one who bought the machine.

11

Q Would you speak up, please.

12

A I was the one who bought the machine.

13

Q What is that check?

14

A The checks that I paid for the machine.

15

Q What is the receipt?

16

A The receipt they gave me.

17

MR. GALLOP: I offer Exhibit R in evidence.

18

MR. JOSSEN: No objection.

19

THE COURT: Received.

20

(Defendant's Exhibit R received

xxx

21

in evidence)

22

Q Now, Mrs. Meyers, yesterday I believe I

23

asked you whether or not you had one or two checking

24

accounts.

25

A We have a main checking account --

1 jpjw M. Meyers - direct 346

2 Q Do you have one or two?

3 A I have one. Can I explain it please?

4 Q Just answer my question.

5 A We have two, I have my own checking account

6 for supermarket and that kind of thing.

7 Q And you have another checking account?

8 A Yes, the main checking account where we

9 pay all the things of the house and the things of the floor.

10 Q When you say the things of the floor, are

11 you referring to the Stock Exchange?

12 A Yes, sir.

13 Q Is that the checking account which is

14 Exhibit B in evidence that you are referring to as the

15 main checking account?

16 A Yes, sir.

17 Q Now, Mrs. Meyers, I don't know if we completed

18 your testimony with regard to Exhibit C.

19 Can you tell us how you prepared Exhibit C?

20 A This was the 1972 and I took all the pink

21 slips and I make piles of each company. Each pile I added

22 on the typewriter and I added all the pieces of paper

23 of each individual company together.

24 Q Is that your handwriting on the side?

25 A Yes.

jpjw

M. Meyers - direct

347

Q What are the letters or the words, what do they indicate?

A The initials of each company.

Q Mrs. Meyers, I show you Exhibit 16 and 17 and ask you if you can identify your signature on these two exhibits?

A Yes, sir.

Q Would you please speak up.

A Yes, sir.

Q Now, you signed these receipts in December, Exhibit 17 in December of 1972 and Exhibit 16 in September of 1972.

A Yes, sir.

Q Did you understand that you were signing a receipt for the repayment of a loan that your husband had made in a prior year?

A Sir, I signed the receipt --

Q Answer my question.

Did you understand that you were signing a receipt for repayment of a loan that your husband had made in the prior year?

A No.

Q What did you understand this was for?

A Before my father died, he always told me I

1 jpjw

M. Meyers - direct

2 had a share or piece of the firm. He told my brother
3 that he would always give it to me.

4 THE COURT: I will take a brief recess
5 at this time.

6 Members of the jury, withdraw to the jury
7 room.

8 (Jury left the courtroom)

9 THE COURT: Would you hand 16 and 17 to
10 the clerk, please.

11 You can step down, Mrs. Meyers.

12 I will be in recess. Notify the clerk
13 when you wish to resume.

14 (Recess)

15 (In open court - jury present)

16 THE COURT: Proceed, Mr. Gallop.

17 MR. GALLOP: Could the reporter read the
18 last question?

19 THE COURT: No, just frame the next question.
20 The death of her father has nothing to do
21 with this case. Let's go on and talk about the case.

22 MR. GALLOP: I have no further questions.

23 THE COURT: Do you have any questions?

24 MR. JOSSEN: Yes, your Honor.

25

1 jpjw

M. Meyers - cross

349

2 CROSS EXAMINATION

3 BY MR. JOSSEN:

4 Q Mrs. Meyers, in 1971 and in 1972, is it
5 your testimony that you were maintaining the books and
6 records for yourself and your husband?

7 A What do you mean?

8 Q You were keeping the books and records, is
9 that your testimony?

10 A My testimony I make the tapes.

11 Q My question to you is, were you keeping the
12 books and records for your husband --

13 A You mean during the year?

14 Q In 1971 and 1972.

15 A You mean during the year?

16 Q Yes, during the year.

17 A During the year in 1971 I make most of the
18 pink slips every month. During '72 I didn't. I just
19 add the pink slips.

20 Q Is it your testimony that you didn't make
21 any of the pink slips in 1972?

22 A It is not my handwriting. I didn't make
23 them. I add them. I maybe have a few of mine, but I
24 don't think so.

25 Q Let me show you this particular packet of

1 jpjw

M. Meyers - cross

350

2 commission advices which comes from Defendant's Exhibit
3 D in evidence and direct your attention to the very top
4 advice.

5 Is that in your handwriting?

6 A No.

7 Q Are any of these in your handwriting in
8 that particular packet?

9 A In this pack?

10 Q Yes.

11 A No, sir.

12 Q Now, Mrs. Meyers, at the time that you
13 prepared or gathered together the information for the 1971
14 tax return, it is correct, is it not, that you talked
15 with your husband about the information which would have
16 to be turned over to the accountants; isn't that right?

17 A Sir, we prepared the income tax return and
18 all I tried to do was help, because I am not an accountant.
19 I tried to prepare the whole thing and send it over for
20 them to check.

21 If they just copy what I send, that's not
22 my problem. Because for that purpose, if I was so smart
23 and I can do that, I go to H.R. Block for \$10 and not
24 \$800 and have it done.

25 All I tried to do was help.

1 jpjw M. Meyers - cross 351

2 Q Now, Mrs. Meyers, would you answer my

3 question.

4 A Yes, sir.

5 Q When you gathered together the information

6 which was turned over to the accountants for the 1971

7 tax return, you discussed that information with your

8 husband, Mr. Meyers, did you not? Yes or no?

9 A I didn't discuss anything. We tried to

10 prepare the best we can and send all the information for

11 them. They are the ones who have to check and discuss

12 it between them.

13 Q Isn't it your testimony that you did not

14 discuss the preparation of the information --

15 A What do you call the preparation of the

16 information?

17 Q Mrs. Meyers, why don't you allow me to ask

18 the question.

19 THE COURT: Please don't argue with the

20 witness. Please, Mrs. Meyers, wait until he finishes

21 and let him ask his question, so you can answer him.

22 THE WITNESS: I'm sorry.

23 Q Mrs. Meyers, I place before you Government

24 Exhibit 7 in evidence.

25 Now, with respect to the various items on

1 kAjw

M. Meyers - cross

352

2 that exhibit, it is correct, is it not, that you discussed
3 those items with your husband before you wrote them
4 on Government's Exhibit 7?

5 A Yes. He dictated to me and I bring it in.

6 Q Your husband dictated the information to
7 you; is that correct?

8 A Yes. Now I go through the checks and I
9 make the check and I do the same.

10 Q Your husband told you the amounts of money
11 with respect to the various items on Government's Exhibit
12 7; isn't that correct?

13 A Yes.

14 Q Now, Mrs. Meyers, in 1971 -- withdrawn.

15 When did you actually write Government's
16 Exhibit 7, what year?

17 A I told you we always wait for the bank
18 statements to return. So figure it out when they return.
19 February?

20 Q You tell me. What is your best recollection
21 as to when you wrote Government's Exhibit 7 in evidence?

22 A I can't give you the exact date because I
23 don't remember. But because we wait for the bank return
24 to come back, I guess around February.

25 Q February of what year?

1 jpjw

M. Meyers - cross

2 A If it is '71, it is '72, right?

3 Q Now, Mrs. Meyers, you did not -- withdrawn.

4 Can you tell us what you did with all of the
5 information that you got together for the 1971 return.
6 What did you physically do with it?

7 A We put everything on top of my desk and I
8 personally put everything in a big envelope.

9 Q You put it in a big envelope?

10 A Yes, sir.

11 Q You didn't put any bank statements in that
12 envelope that year, did you?

13 A '71?

14 Q '71.

15 A No, sir.

16 Q You did however put some bank statements
17 in for '72, isn't that correct?

18 A Yes, sir, but I don't do everything the
19 same every year.

20 Q Mrs. Meyers, did you not deliver that envelope
21 to Ernst & Ernst, did you?

22 A No, sir.

23 Q And you don't know of your own knowledge,
24 do you, what materials were actually turned over to Ernst
25 & Ernst; isn't that correct?

1 jpjw

M. Meyers - cross

2 A All of them, because nothing was left out.

3 Q Well, you did not actually take the items
4 to Ernst & Ernst; isn't that correct?

5 A No, sir.

6 Q Your husband took them to Ernst & Ernst,
7 is that correct?

8 A Yes.

9 Q You were not with your husband when he
10 delivered those items to Ernst & Ernst, is that correct?

11 A No, he delivered them on his way to work.

12 Q You don't know of your own knowledge whether
13 all the documents were actually turned over to Ernst &
14 Ernst, isn't that correct?

15 A I don't see a reason why not.

16 Q Mrs. Meyers, you do not know of your own
17 knowledge, isn't it correct, whether all the documents
18 that you placed in that envelope were actually turned
19 over to Ernst & Ernst, isn't that correct, yes or no?

20 A If that's the way you think. What are you
21 trying to tell me?

22 Q I have asked you -- withdrawn.

23 Now, with respect to the information that
24 you gathered for 1972, is it your testimony that you again
25 put all this information in an envelope?

1 jpjw

M. Meyers - cross

355

2 A Yes.

3 Q And you did not deliver that information to
4 Ernst & Ernst?

5 A I never delivered the information.

6 Q Your husband delivered it to them each time,
7 isn't that correct?8 A Yes, but the accountant in 1972 came to the
9 house to pick up some -- to deliver a few things and pick
10 up some checks.11 Q He came to the house when he delivered the
12 returns; isn't that correct?

13 A Yes, sir.

14 Q Now, when you prepared the adding machine
15 tape which is Government Exhibit 4 in evidence -- first,
16 would you tell us did you prepare that tape at the same
17 time that you prepared Government's Exhibit 7 in evidence?18 A I don't remember, sir, which one I prepared
19 first.20 Q Well, did you prepare them at the same
21 time?

22 A I guess.

23 Q You guess, you don't know?

24 A I don't remember.

25 Q Was your husband in the room with you when

jpjw

M. Meyers - cross

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you prepared Government's Exhibit 4 in evidence, the tape?

A Which is 4, the tape?

Q The tape.

A He wasn't.

Q He was not. You got the commission advices that you used for that tape from your husband, isn't that correct?

A No, sir. I took all the pink slips and I add them all.

Q Mrs. Meyers, I give you what has been received in evidence as Defendant's Exhibit P-3.

Do you recognize that exhibit?

A Yes, sir.

Q Would you tell us what Defendant's Exhibit P-3 in evidence is?

A Excuse me. I don't understand.

Q Tell us what Defendant's Exhibit P-3 in evidence is.

A What this means?

Q What it is.

A They are the pink slips.

Q For what year?

A For '71.

Q All right.

1 jpjw

M. Meyers - cross

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2 Now, would you please take your time and
3 put the slips which are Defendant's Exhibit P-3 in the
4 same order that they appear on Government's Exhibit 4
5 in evidence.

6 A The whole tape?

7 Q Yes.

8 A If nobody helps me, I will be here until
9 tomorrow. What do I do, mark these things?

10 Q No. Just put the slips themselves in the
11 same order.

12 A Here is this one. If I am going by this
13 one, I will never finish.

14 Q I am asking you to appear in the same
15 order that they appear on the tape .

16 Can you do that?

17 A You mean you want me to take all these
18 staples off?

19 Q Do you know when the staples were put on
20 those commission advices?

21 A The staples are on?

22 Q Do you know when they were put on?

23 A I don't know if they were stapled together
24 or maybe you put them together when you had them.

25 Q When you had the commission advices and you

1 jpjw

M. Meyers - cross

2 prepared the tape which is Government Exhibit 4 in
3 evidence, you had the commission advices in a certain
4 order, didn't you?

5 A Sir, there is no order for that.

6 Q Didn't you have them in chronological order
7 by month?

8 A What for? If I made them in chronological
9 order, that I did in '72. But in '71, like I told you,
10 if I were an accountant, I would be doing something
11 different.

12 Q Mrs. Meyers, would you please take these
13 commission advices, take the staples off and put them
14 in the same order that they appear on the tape.

15 A Would you bring me something to take the
16 staples off, please. Can you please take them off?

17 Q We will come back to that a little later
18 on.

19 A It is not easy for you to run a different
20 tape.

21 THE COURT: Would counsel approach?

22 (At the side bar)

23 THE COURT: You don't believe in the wisdom
24 of Rufus Chate?

25 MR. JOSSEN: Your Honor, the advices were

1 jpjw M. Meyers - cross
2 in a particular order and it is clear they were in a
3 particular order on the tape.

4 When they are put in that order and contrasted
5 with the order of the advices on Defendant's Exhibit Q,
6 it makes a very significant point.

7 THE COURT: Does she need to do that?

8 MR. JOSSEN: I will have somebody else
9 do it, your Honor.

10 MR. GALLOP: Your Honor, these advices,
11 besides being in the defendant's possession and were in
12 my possession and were in the possession of Agent Grau
13 during the audit.

14 MR. JOSSEN: Your Honor, when I observed
15 these advices just last week when they were turned over
16 to me by Mr. Gallop, they were in the same order as they
17 appear on the tape. They are not in that order now.

18 THE COURT: There is no reason why they
19 can't be placed in the order of which they were on the
20 tape. I think unduly prolonged cross examination of
21 this lady is doing the best she can with a difficult
22 situation ought not to be pursued. I am not making any
23 direction, you can do it any way you like.

24 (In open court)

25 Q Mrs. Meyers, I place before you Defendant's

1 jpjw

M. Meyers - cross

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2 Exhibit Q in evidence.

3 Did you prepare Defendant's Exhibit Q in
4 evidence at the same time you prepared Government's Exhibit
5 4 in evidence?

6 A What was the question you asked me?

7 Q Did you prepare Defendant's Exhibit Q in
8 evidence at the same time that you prepared Government's
9 Exhibit 4 in evidence?

10 A Q and 7, what is this? You mean these two
11 tapes?

12 Q Yes.

13 A If I prepared these two tapes at the
14 same time?

15 Q That's correct, that is the question.

16 A Yes.

17 Q Same day?

18 A Yes.

19 Q And you were interrupted in the preparation
20 of those two tapes by a few minutes; is that correct?

21 A Yes, sir.

22 Q Which tape did you prepare first?

23 A The short one.

24 Q Defendant's Exhibit Q, is that correct?

25 A Yes.

jpjw

M. Meyers - cross

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Q And you had it by your side when you started preparing Government's Exhibit 4, isn't that correct?

A Yes, sir.

Q Now, it is your testimony that after you finished preparing Defendant's Exhibit Q in Government's Exhibit 7, you wrapped them together around these advices which are Defendant's Exhibit P-3, is that correct?

A Yes, sir.

Q Did you have a conversation with your husband when you turned over these documents to him?

A No, sir. I just wrapped them around and put all these things together to be put in the same, like everything was the same and that was it.

Q You put a rubber band around them, is that correct?

A Yes.

Q Mrs. Meyers, at the time that you prepared the adding machine tapes which are Government's Exhibit 4 and Defendant's Exhibit Q, had you heard of a commission bill settlement statement form, yes or no?

A No.

Q Never heard of that form?

A No.

Q Had you ever seen such a form, yes or no?

jpjw

M. Meyers - cross

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Q And you had it by your side when you started preparing Government's Exhibit 4, isn't that correct?

A Yes, sir.

Q Now, it is your testimony that after you finished preparing Defendant's Exhibit Q in Government's Exhibit 7, you wrapped them together around these advices which are Defendant's Exhibit P-3, is that correct?

A Yes, sir.

Q Did you have a conversation with your husband when you turned over these documents to him?

A No, sir. I just wrapped them around and put all these things together to be put in the same, like everything was the same and that was it.

Q You put a rubber band around them, is that correct?

A Yes.

Q Mrs. Meyers, at the time that you prepared the adding machine tapes which are Government's Exhibit 4 and Defendant's Exhibit Q, had you heard of a commission bill settlement statement form, yes or no?

A No.

Q Never heard of that form?

A No.

Q Had you ever seen such a form, yes or no?

1 jpjw

M. Meyers - cross

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2 A Can you repeat the name?

3 Q Commission bill settlement statement form.

4 A Maybe it has a different name but the name
5 that you give me, I never hear.6 Q Do you recall seeing a form that came along
7 together with your husband's monthly check each month?

8 A I don't think so, I always saw the check.

9 Q But you never saw a form, is that your
10 testimony?11 A Sir, I don't remember. But I don't think
12 I saw one. I don't know.13 Q Now, you have seen your husband use the same
14 adding machine, have you not?

15 A If my husband use the same adding machine?

16 Q You have seen your husband use the same
17 adding machine?

18 A It's the only one we have.

19 Q You have seen him use it?

20 A Sure.

21 Q He was using it in 1972, isn't that correct?

22 A In '72, sure, it was the only one we had.

23 Q It was the only adding machine that you had
24 in 1972, is that your testimony?

25 A I told you we bought it at the beginning of

1 jpw

M. Meyers - cross

2 '72 and it was the only one we had. We had one before
3 and we gave it away.

4 Q You saw your husband using that adding
5 machine in 1972, is that correct?

6 A Yes.

7 Q And you saw your husband using that adding
8 machine in 1973, isn't that correct?

9 A Yes.

10 Q Now, Mrs. Meyers, you can read and write
11 English, can you not?

12 A To the best of my acknowledgment but if it
13 is very hard words or something like that, I have to ask.

14 Q You can read, can you not?

15 A Yes.

16 Q Now, I show you Government Exhibit 1 in
17 evidence. That is your signature, is it not?

18 A Yes, sir.

19 Q And that is your husband's signature above
20 it?

21 A Yes, sir.

22 Q Did you and your husband sign the return at
23 the same time, yes or no?

24 A Yes, but, but when we signed --

25 Q Just answer my question.

1 jpjw

M. Meyers - cross

2 A Yes, sir.

3 Q And I show you Government Exhibit 2 in
4 evidence. That's your signature, is it not?

5 A Yes, sir.

6 Q And above that that's your husband's
7 signature, is that correct?

8 A Yes, sir.

9 Q Did you sign Government's Exhibit 2 in
10 evidence at the same time?

11 A Yes, sir.

12 Q Now, in 1971 and 1972, you were familiar,
13 were you not, with the various customers, various broker-
14 age concerns with whom your husband was transacting business,
15 isn't that correct?

16 A All the firms?

17 Q You knew the names, did you not?

18 A Well, most of them.

19 Q You were familiar with the names, isn't that
20 correct?

21 A Yes.

22 Q And you were familiar with them because you
23 had gone through the pink slips, isn't that correct?

24 A Yes.

25 Q Now, did you know -- withdrawn.

jpjw

M. Meyers - cross

It is correct, is it not, that in 1971
your husband did a large amount of business with L.F.
Rothschild & Company?

A What year, sir?

Q 1971.

A I think so.

Q And in 1972 he did the same, isn't that
correct?

A Yes, sir. I knew I made a mistake in
1972 because they tell me every day since I made the
mistake.

Q Mrs. Meyers, please answer the questions
when I ask them to you.

I show you Defendant's Exhibit C in
evidence, that's your handwriting in the column; is that
correct?

A Yes, sir.

Q Those initials stand for the various
brokerage concerns with which your husband was transacting
business; isn't that correct?

A Yes.

Q You now know, do you not, how much money
your husband made from L.F. Rothschild in 1972?

A I don't know the amount of money. I told

1 jpjw M. Meyers - cross
2 you I have pink slips. I don't keep a record of what he
3 makes.

4 Q Well, in 1972 when you prepared the
5 commission advices, it is your testimony, is it not, that
6 you prepared them in the order of firms?

7 A Yes, but, but sometimes we do business with
8 a firm, maybe twelve months of the year only one month or
9 two months. I am not on the floor with him. How am I
10 supposed to know?

11 Q I show you Defendant's Exhibit D in
12 evidence. You prepared these individual slips of paper,
13 did you not?

14 A Yes, sir.

15 Q You ran a tape on each firm, did you not?

16 A Yes, sir.

17 Q Do you recall that it is correct, is it
18 not, that at the time you ran the tape on L.F. Rothschild &
19 Company there was only one slip in front of you; is that
20 correct? Just answer yes or no.

21 A Yes, sir.

22 Q Then you bundled up those commission
23 advices, is that correct?

24 A Right, sir.

25 Q And you put the tape around them?

jpjw

M. Meyers - cross

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A Right, sir.

Q Now, directing your attention to Government's Exhibit 7 in evidence, I show you line 28.

A Yes, sir.

Q You wrote that line at your husband's direction; isn't that right?

A Right, sir.

Q You knew, did you not, at the time you wrote that line 28 on Government Exhibit 7 that that was a reference to the \$25,000 loan your husband had made to your brother, Mr. Fernandez; isn't that correct?

A Right, sir.

Q Now, Defendant's Exhibit N in evidence, do you recall preparing that tape?

A Yes.

Q You placed that tape into the envelopes with the bank statements, isn't that correct?

A For '72.

Q Now, in 1972, did you show the adding machine tape which indicates the commission advices to your husband?

A What is the commission advices?

Q Defendant's Exhibit C. Did you show that tape to your husband?

jpjw

M. Meyers - cross

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A No, sir.

Q You didn't show it to him? You didn't discuss this with him at all?

A No, sir. I just put all the pink slips inside with that thing. So, if I make the mistake, when they add all the pink slips, they will realize right away there was --

Q Mrs. Meyers, there is no question pending before you.

A I'm sorry, I didn't know I could say.

Q Now, in 1972, you got the commission slips, the pink slips from your husband, isn't that correct?

A Yes.

Q And in 1971 you got the pink slips from your husband as well?

A Yes.

Q Now, it is your testimony that in the main bank account, I believe it is Defendant's Exhibit B, in this exhibit, B, all of your husband's commission checks would be deposited; is that correct?

A Yes.

Q And you are sure of that; is that correct?

A To my knowledge that's where everything goes.

jpjw

M. Meyers - cross

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Q Now, you never met a man by the name of James Crumlish, did you?

A Who?

Q James Crumlish. You never had any conversations with him, did you?

A Not at all.

Q Now, on Government's Exhibit 16 and 17 in evidence, your husband's signature appears there too, does it not?

A Yes, sir.

Q You were with your husband when these two signature were signed, is that correct?

A Right, sir.

Q That was in Puerto Rico, was it not?

A I don't remember, sir.

Q You traveled to Puerto Rico many times since you have been married to your husband?

A Yes, sir.

Q And your husband frequently goes with you?

A Not as often as I go.

Q Well, in 1971 and 1972, you went to Puerto Rico at least four times each year, isn't that correct?

A I can't tell you the exact amount. I don't remember.

jpjw

M. Meyers - cross

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Q Your husband went with you on many of those occasions in 1971 and 1972, did he not?

A Maybe, sir. I don't remember the amounts.

Q You did not keep your husband's diary,
did you?

A No, sir.

Q Your husband did that, isn't that right?

A Right, sir.

Q Now, Mrs. Meyers, returning again to Government's Exhibit 4 and Defendant's Exhibit Q, it is correct, is it not, that when you prepared these two tapes the commission advices were in a particular order; isn't that correct?

A This is '71?

o Well, you tell me, Mrs. Meyers.

A Well, you moved so many times the tape
that anybody can go crazy here.

Q Take a look at Defendant's Exhibit Q.
Do you recognize that exhibit?

A Yes, I think these are the two.

Q You think? You are not sure?

A I am almost positive. I saw so many tapes that you can drive anybody crazy.

Q With respect to Defendant's Exhibit Q and

1 jpjw M. Meyers - cross
2 Government's Exhibit 4 in evidence, the two tapes that
3 you say you prepared in 1972 were for the 1971 return,
4 did you have the pink slips in any particular order when
5 you prepared the tape?

6 A No, sir. I told you before in '71 I
7 put everything in a pile. I had December on top and
8 January underneath. I told you I added up all the
9 companies.

10 Q Mrs. Meyers, you have been married to the
11 defendant, Mr. Meyers, for how long?

12 A Since 1974. I mean '64.

13 Q And since you became aware of the charges
14 in this case, you have had many occasions to discuss this
15 case with your husband, have you not?

16 A Well, every single day they tell me I make
17 a mistake with one account.

18 Q Who tells you that, your husband told you
19 that?

20 A Yes, because everybody claims it is my fault
21 I didn't add the bunch -- I missed one pile of these.

22 Q Your husband has told you that it is your
23 fault, is that your testimony?

24 A It is not my fault. I understand it is my
25 fault. It is not my fault because the accountant should

1 jpjw M. Meyers - cross 372
2 double-check and take his time and check the pink slips.
3 The problem is he just copies what I sent and who am I.
4 Q Mrs. Meyers, you were aware, were you not,
5 of the fact that there was an audit of your husband's
6 and your individual return for 1972 in November 1973?
7 A Sir, you make a lot of noise everybody has
8 to hear. You gave me plenty of headaches and you destroy
9 my family on top of everything.
10 Q Mrs. Meyers, try and answer my question.
11 A I am answering your question, sir.
12 Q Is it correct that you learned of an
13 IRS, an Internal Revenue Service audit into your 1972
14 tax return in November of 1973; yes or no?
15 A Sir, I don't remember when I hear it.
16 How can I remember the date. Since now on I will keep
17 a diary with all the dates so I know the answers.
18 MR. JOSSEN: I have no further questions
19 of the witness.
20 THE COURT: Any redirect?
21 MR. GALLOP: No, your Honor.
22 THE COURT: You may step down, Mrs. Meyers.
23 (Witness excused)
24 MR. GALLOP: I have two exhibits to offer,
25 your Honor.

1 jpjw

2 THE COURT: Show them to Mr. Jossen.

3 MR. JOSSEN: Your Honor, I object on the
4 grounds of relevance, but that is the only grounds I
5 object to it.

6 THE COURT: I will overrule the objection.
7 What are the next two numbers? They will
8 be received.

9 (Defendant's Exhibits S and T
10 received in evidence)

xxx

11 MR. GALLOP: I would like to describe
12 them to the jury, your Honor.

13 THE COURT: Yes, sir.

14 MR. GALLOP: Exhibit S in evidence is the
15 1971 amended tax return of Harvey and Maria Meyers with
16 the check which accompanies these tax returns, dated
17 September 15, 1974 and the check is in the sum of \$14,760.

18 Exhibit T in evidence is the 1972 amended
19 tax return with the check which accompanied that tax
20 return, the check is dated September 15, 1974 and is in
21 the sum of \$32,754.

22 Your Honor, the defense rests.

23 THE COURT: Does the government have any
24 rebuttal testimony?

25 MR. JOSSEN: Yes. We will have a very

1 jpjw

2 brief rebuttal.

3 May I speak with Mr. Gallop for a second?

4 THE COURT: Certainly.

5 (Pause)

6 MR. JOSSEN: Your Honor, may I announce a
7 stipulation to the jury?

8 It is stipulated by and between the United
9 States and the defendant, Harvey Meyers, that the defendant
10 Harvey Meyers was contacted by the Internal Revenue Service
11 with respect to the audit of the 1972 tax return in
12 September of 1973.

13 That in November, 1973, an audit actually
14 commenced and that in March of 1974 the investigation was
15 referred to the Intelligence Division of the Internal
16 Revenue Service. And that the audit remained open at
17 the time until September of 1974 when the amended returns
18 were filed.

19 Is that correct, Mr. Gallop?

20 MR. GALLOP: Yes.

21 THE COURT: It is so stipulated as to those
22 dates.

23 MR. JOSSEN: Your Honor, the government
24 calls Mr. James Crumlish.

25 THE COURT: All right, Mr. Crumlish is

1 jpjw

2 called as a rebuttal witness.

3
4 J A M E S C R U M L I S H, called as a
5 witness in rebuttal, having been previously
6 sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. JOSSEN:

9 THE COURT: Mr. Crumlish, you are reminded
10 that you were previously sworn in this case and you remain
11 under oath.

12 Q Mr. Crumlish, I place before you what has
13 been received in evidence as Defendant's Exhibit Q.

14 Would you examine that exhibit, please.

15 A Yes.

16 Q Mr. Crumlish, did you ever see Defendant's
17 Exhibit Q in connection with any of the materials given
18 to you by Harvey Meyers in the preparation of the 1971
19 income tax return?

20 A I don't recall seeing this tape.

21 Q Can you tell us, Mr. Crumlish, in the
22 materials that you received from Mr. Meyers, were there
23 any adding machine tapes without any description or writing
24 on them?

25 A I believe there were some tapes in there

XXX

jpjw

Crumlish - cross

377

packet of information that you received from Mr. Meyers?

A I don't recall everything that was contained in the package -- can I continue?

Q You don't recall anything. Are there things that might have been contained in the packet which you do not recall receiving?

A Yes.

Q Could among them have been canceled checks?

A Yes.

Q And adding machine tapes?

A Attached to checks, yes.

Q You mean you actually specifically do not recall any adding machine tape not attached to any checks?

A That's true.

Q You have a specific recollection?

A I recall that there were no loose or extraneous tapes in the package.

Q In order to do that, I assume you went through each item in the package?

A Yes.

Q And did you make an inventory?

A No, I did not.

Q When you went through each item, did you categorize it in any way?

jpjw

Crumlish - cross

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A I really don't recall.

Q Do you recall when I asked you on your cross examination yesterday to go through a number of items?

A Yes.

Q And you made several piles, do you recall?

A Yes.

Q Can you tell us the various categories that you made?

A I have a recollection of making one interest receiving advice.

Q That was one piece of paper?

A Yes.

Q That was only one piece of paper you recall some five years later receiving, is that correct?

MR. JOSSEN: Objection, your Honor.

THE COURT: He can answer it.

A Right.

Q What was the next category?

A The next category was the commission advices themselves, which I couldn't say I remembered seeing them specifically but I did see commission advices like them in connection with the adding machine tape.

The third pile was items that I had no recollection of actually seeing, but I could assume that

1 jpjw Crumlish - cross/redirect 379
2 I did see them insofar as I had the information to complete
3 various schedules in the return.

4 The fourth pile was items that I had
5 no recollection of.

6 Q That was the largest pile of all?

7 A Yes, it was.

8 Q That contained a variety of items, is that
9 correct?

10 A Yes.

11 Q Checks, bills, receipts, right?

12 A Yes.

13 Q You say today some five years later that
14 you have a specific recollection although you can't
15 recall receiving those items of not receiving any loose
16 adding machine tapes?

17 A Yes, sir.

18 MR. GALLOP: No further questions.

19 MR. JOSSEN: One question, if I might.

20 REDIRECT EXAMINATION

21 BY MR. JOSSEN:

22 Q Mr. Crumlish, if you had received in the
23 materials from Mr. Meyers any loose adding machine tape,
24 not connected to any other materials, would you tell us
25 what you would have done?

XXX

1 jpjw Crumlish - redirect/recross 380

2 A I would have contacted the taxpayer and
3 asked him what it was, what it was in reference to.

4 MR. JOSSEN: I have no further question.

5 THE COURT: Anything else.

6 RECROSS EXAMINATION

XXX

7 BY MR. GALLOP:

8 Q Did you contact the taxpayer about any of
9 the bills in the pile that you don't recall?

10 A I don't believe I contacted the taxpayer
11 again after our initial meeting except for the bad debt
12 item.

13 Q If it is only the adding machine tapes
14 that would jump up at you?

15 MR. JOSSEN: Objection, your Honor.

16 THE COURT: I believe the form is objectionable.

17 Q It is only the adding machine tapes that
18 would make you curious and give you cause to contact the
19 taxpayer?

20 A If it was an unexplained item, I would
21 have contacted the taxpayer, yes.

22 MR. GALLOP: No further questions.

23 THE COURT: Anything else?

24 MR. JOSSEN: Nothing further of this witness,
25 your Honor.

1 jpjw

2 THE COURT: The witness may step down.

3 (Witness excused)

4 MR. JOSSEN: Government rests, your Honor.

5 MR. GALLOP: Defendant rests.

6 THE COURT: We will have a recess of
7 probably fifteen to twenty minutes at this time. You
8 haven't heard anything yet. After the recess, you will
9 hear the closing arguments of the attorneys. Then probably
10 after lunch, you will hear my instructions as to the law
11 applicable to this case.

12 Now, it is absolutely essential that all of
13 you keep an open mind about this case and don't reach
14 any conclusion until you have listened to what the
15 attorneys have to say and until you have listened to
16 what I have to say about the law.

17 So, I instruct you again, don't discuss
18 the case and please keep an open mind. You may withdraw
19 to the jury room.

20 (Jury left the courtroom)

21 THE COURT: I will have about a three or
22 four minute recess and then we will have the charge
23 conference. Don't go too far away.

24 (Recess)

25

1 jpjw

2 THE COURT: To the extent that any requests
3 to charge have been given to the Court in writing, it
4 will not be necessary for you to take any exceptions on
5 the record and it will be deemed to have an exception as
6 to anything you requested which was not charged in sub-
7 stance without the necessity of repeating it at the end.

8 Have you requested a charge against that
9 there is a charge of no adverse interest for failure to
10 take the stand?

11 MR. GALLOP: I believe you have it. It
12 is Request No. 12.

13 THE COURT: I will give my standard charge
14 if it was not requested. I see no necessity for charging
15 about expert testimony but I will do so if requested.

16 MR. GALLOP: I have no request.

17 MR. JOSSEN: I will request it.

18 THE COURT: He didn't really testify to
19 anything involving expertise. All he testified to was
20 a pure computation.

21 MR. JOSSEN: Except there was testimony
22 with respect to the propriety of the \$25,000 deduction
23 as a business had debt versus a non-business had debt and
24 there is a significance from the evidence which I expect
25 to comment about.

jpjw

THE COURT: That is a matter of law which I could have instructed the jury on if necessary which they are not really disputing.

You can find one taxpayer in a million who is better off having it off as a non-business bad debt. It is hard for me to think of an example but I know it exists.

MR. JOSSEN: Would your Honor explain to the jury in your charge the distinction again?

THE COURT: I don't think it is necessary unless the tenor of the summations is such to make it in doubt or in issue. I don't expect to comment at any great length of anything of that sort.

I will tell them in my instructions the importance of their impartiality. The parties and the government are equal. That they are the sole judges of the fact. They have to follow my instructions as to the law. That their recollection of facts controls over anything I might say or anything the attorneys might say. They must disregard stricken out evidence. That I have no opinion as to guilt or innocence. The indictment is no evidence of guilt. I will explain the presumption of innocence and define reasonable doubt in standard form used here in this district.

1 jpjw

2 MR. GALLOP: Do you use the word hesitate,
3 your Honor?

4 THE COURT: Yes, prudent person to hesitate.
5 It is Judge Weinfeld's charge. I think everybody uses
6 it today.

7 Each count should be found separately. I
8 will define direct and circumstantial evidence.

9 I will discuss credibility. I don't think
10 there is any need for the expert witness charge unless
11 requested by defense, I will not do it.

12 MR. GALLOP: I do not request.

13 THE COURT: I will tell them again that
14 charts are not evidence by themselves. I will charge
15 that Fernandez, Marcelino Fernandez is an accomplice and
16 the conviction may rest on the uncorroborated testimony
17 of an accomplice if they believe it. They have to weigh
18 it with caution and scrutinize it carefully.

19 MR. JOSSEN: Your Honor, might I press the
20 government's supplemental request with respect to Mr.
21 Fernandez' testimony.

22 There, of course, were circumstances in
23 which the jury can believe Mr. Fernandez' testimony and
24 yet not find him an accomplice.

25 THE COURT: I don't know how. Here is a

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2 man who graduated from Georgetown University in spite of
3 the act he put on the stand and draws up two or three
4 back letters. What does he expect them to do with the
5 letters, play tiddledywinks?

6 I think it is ridiculous to argue that he
7 is not an accomplice. I think you might be on firm ground
8 arguing that he is truthful.

9 I will incorporate most of supplement
10 Request No. 1, but I will take out -- I will not summarize
11 what he did. In other words, the last paragraph of the
12 first page I will not give.

13 I will tell them that the government has
14 no choice. While I am on the subject, I suppose there
15 is nothing wrong with the charge about the amended tax
16 returns. I don't find them very significant. I am not
17 going to use the expression "weight" at all to determine
18 what weight it is entitled.

19 I will charge that one who testifies under
20 immunity is a competent witness and the decision as to who
21 gets immunity is not a matter for their consideration, but
22 they should weigh it with greater care.

23 I am taking the substance of No. 10 of the
24 defendant's request. I will tell them that the wife and
25 the Internal Revenue agent have an interest in the outcome,

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2 simply because a witness had an interest in the outcome
3 does not mean he can't testify truthfully but it may
4 create a motive. They may consider and appraise the
5 credibility.

6 MR. JOSSEN: I will object to that with
7 respect to the Internal Revenue agent.

8 THE COURT: I want to be even-handed about
9 it. There is such a thing as overkill. He is the govern-
10 ment agent who determines which of these cases are prosecuted
11 and he has an interest in the outcome. I think it is
12 fair to tell them that.

13 MR. JOSSEN: I believe that's not correct
14 on the record.

15 THE COURT: I understood he was the head
16 of --

17 MR. JOSSEN: He is the technical advisor
18 for regional council. All he does is perform the
19 computation. He does not decide which cases are prosecuted
20 from what I understand.

21 THE COURT: What do you say about that?

22 MR. GALLOP: Mr. Jossen is correct as to
23 the status.

24 THE COURT: Hartnett did not testify.

25 MR. GALLOP: If you are referring to Mr.

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2 Buchbinder, then Mr. Jossen is correct.

3 THE COURT: The testimony of an agent,
4 the only agent they heard was Buchbinder, is that correct?

5 MR. JOSSEN: That is correct.

6 THE COURT: Is there anything requested
7 with respect to him, the fact that he is a government
8 agent does not entitle his testimony to any weight?
9 Are you still requesting that?

10 MR. GALLOP: Request No. 4.

11 THE COURT: Are you still persisting in
12 that?

13 MR. GALLOP: Yes, because it is a witness
14 for the government, not only a government agent that I
15 refer to.

16 THE COURT: I am only going to charge as
17 to government employees. Not that any witness for the
18 government. Any witness the government calls. That
19 certainly doesn't apply.

20 I will charge it as to Buchbinder, if you
21 want it. I think it is unnecessary but I suppose you
22 are entitled to it.

23 MR. GALLOP: I don't want it just as to
24 Buchbinder then.

25 THE COURT: Then I will go to the beginning

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2 part of government's Request No. 1.

3 I will tell them that each taxpayer is
4 his own tax assessor and is required to make a disclosure
5 to the government annually. It is proper for the
6 government to make an examination of it and without any
7 necessity of filing of any returns. The fact that there
8 was no withholding or no Form 1099 does not in any way
9 affect the issues before the jury in this case. The
10 system can function only if the taxpayer files an accurate
11 and adequate return.

12 I will take Request No. 2 on page No. 1
13 in substance. Then I will explain. There are two
14 separate counts. I will read the counts and then I will
15 go to the statute, which is Request No. 2 of the govern-
16 ment.

17 Then to Request No. 4. I am adding the
18 word additional to Item 1 and I am referring to it as the
19 calendar year referred to in the count of the indictment
20 you are considering. I will add the word knowingly at
21 the end of No. 3.

22 If the government fails to prove any one of
23 these three elements beyond a reasonable doubt on the
24 particular count you are then considering, you must find
25 the defendant not guilty of that count.

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2 Then I will take the first page of Request 5
3 and I will instruct that the government need not prove
4 the precise amount alleged in the indictment. It is
5 sufficient if it is substantial.

6 Page 2 of Request 5 down through the word
7 of substantial. The balance of the page I will not give.
8 I do not like to tell the jury that there is nothing as
9 to which there is no significant dispute.

10 As to the second element, I will add the
11 words "an intentional attempt" on the first line.

12 As to the third element, I will charge that
13 it must be knowingly and wilfully and that voluntarily and
14 intentionally with a specific intent which the law forbids.
15 I will define the words knowingly and wilfully in the
16 standard form used in this circuit. That is as opposed
17 to inadvertent mistake and carelessness and so forth.

18 It is determined in the mind and can
19 determine it from all the evidence. The defendant does
20 not have to prove that his actions were knowingly and
21 wilfully done. It is the government's burden to prove it
22 beyond a reasonable doubt.

23 In the defendant's request it says at the
24 time he signed his return. Is that the significant time
25 or when he filed it?

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2 MR. GALLOP: I will consent to file it.

3 THE COURT: I took that from your request.

4 Then as far as government's Request 8, I am
5 taking the first sentence of that but I am striking out
6 the requirement that he believed the person is competent.

7 I will tell them that if they find the
8 defendant knowingly and wilfully and intentionally gave
9 false financial information to Ernst & Ernst intending
10 thereby to evade his income tax and expecting that Ernst
11 & Ernst man would use those false figures in preparing the
12 returns and he in fact did so, then that is sufficient to
13 satisfy the government's burden as to the element of the
14 crime. It makes no different if the people employed by
15 Ernst & Ernst were foolish or stupid or negligent or
16 careless.

17 The function of a tax preparer is to use
18 his best evidence assembled by his client. A tax preparing
19 service is not involved in making an audit.

20 MR. GALLOP: I would object to the phrase
21 "tax preparing service".

22 THE COURT: Isn't that what Ernst & Ernst
23 is, a tax preparing service or an accountant.

24 MR. GALLOP: Fine.

25 THE COURT: Or an accounting firm.

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2 MR. GALLOP: Fine. They are certainly
3 guilty "mopery" to charge \$800 for doing what they
4 didn't do. They really are. Probably this is a lesson
5 if you want to do it, have Ernst & Ernst sign it.

6 I will tell them if he provided his tax
7 preparer with full accurate and truthful information,
8 he signed the return prepared for him without having
9 reason to believe it was not correct and he was not guilty.
10 That comes from the Rifkind case which has been cited in
11 the Request No. 8.

12 MR. JOSSEN: Would your Honor add any
13 instruction in that respect as to what the jury's verdict
14 can be if they find that he has supplied information for
15 the accountant but supplied it in such a way designed to
16 prevent the accounting firm from determining the actual
17 income?

18 MR. GALLOP: I think that was already
19 covered.

20 THE COURT: I haven't covered it in quite
21 those words and I really don't think that that was what
22 was really proven. It is a puzzling thing of here is a
23 man who gets twelve checks in a year and he must be
24 working pretty hard to earn that kind of money. He gets
25 twelve checks from a single source and instead of taking

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2 the twelve checks and adding them up, he takes all these
3 silly pink slips and aggregates them into a great big tape
4 and binds them up and makes them look like a big deal.

5 I think any juror with common sense is
6 entitled to infer that this fellow knew what his income
7 was and knew where they came from and he just created a
8 flimflam to fool a foolish accountant. That's up to
9 them. They can reach that conclusion. I think that
10 is something that is inherent in this case.

11 They went through this big charade in
12 totaling up these pink slips when they had twelve payments
13 from one source. He knew it was his income. A fellow
14 that works that kind of hard and makes those kind of
15 billings must be deemed to know what he is earning within
16 an area of magnitude.

17 I don't understand that aspect of the case.
18 That's for the jury. I am not commenting on that.

19 MR. JOSSEN: My concern is that with respect
20 to '71, I am not concerned. But with respect to '72,
21 in view of Rubin's testimony his testimony was he relied
22 on the bottom line figure given to him by Meyers.

23 I am concerned that the jury may speculate
24 that there were other advices that were somehow in all the
25 information that was given to Ernst & Ernst in that year.

1
2 It seems to me that if the jury finds that
3 Meyers presented the tape and the bottom line information
4 to Ernst & Ernst on the hope --

5 THE COURT: Intending they should use it.

6 MR. JOSSEN: Even if the commission advices
7 were there and even if they were actually --

8 THE COURT: I don't have to go into even
9 if. He signed the return and the return was wrong and
10 the question is did he intentionally create that situation
11 by giving false information to the accountants. That's
12 really the only issue in the case as far as that aspect
13 of it is concerned.

14 But if it is a mistake, if they just made
15 a mistaken, then he must be acquitted. I'm sorry, I
16 didn't mean to interrupt you.

17 MR. JOSSEN: I wanted to raise a somewhat
18 related point.

19 Will the Court instruct the jury and take
20 judicial notice in effect of the requirement that if the
21 \$25,000 Fernandez loan, if they find it was repaid in
22 1972, then under the Internal Revenue Service Code it
23 was required to be declared as income?

24 THE COURT: That's been testified to by
25 everybody in this case. Nobody has testified to the

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2 contrary. If he left that off, if that's all you had,
3 I would throw the case out myself. Because I could see
4 how a person could collect a bad debt and forget to
5 report it.

6 But the real problem here is taking up these
7 documents or getting the brother-in-law to fake up these
8 documents. If you believe Fernandez, he was evading
9 in '71 and '72 as a result of this bad debt situation.
10 He was evading when he took it off and he was evading
11 later on when he failed to put it back.

12 MR. JOSSEN: I think the facts go even
13 further than that with respect to the \$25,000 loan.

14 There has been testimony in the record that
15 Rubin had a conversation with Meyers in '73 and Meyers is
16 asking Rubin as to taking off travel for this bad debt.
17 So, I think it shows clear knowledge about it.

18 THE COURT: You can argue that to the jury.
19 You have to assume that the jury has common sense.

20 I will tell them they are not concerned
21 with the sentence and they are not concerned with any
22 sympathy or speculation or anything like that.

23 They should not hesitate to return a verdict
24 of guilty if they are convinced he is guilty. The public
25 is entitled to be assured of it. They have to take the

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2 tax laws as they stand. They are not to be affected by
3 any feelings about the tax laws or how bad they are.

4 I will tell them their verdict must be
5 unanimous and they should deliberate and that's about it.

6 Now, is there any question that any of you
7 have or any additional requests or any problems anyone
8 wants to take up with the charge?

9 MR. JOSSEN: I have one query to make of the
10 Court.

11 THE COURT: I have to tell you also and
12 I think only in fairness I should tell you. If the tenor
13 of the summations involves a red herring, the Court has
14 a right to meet that in the charge even though not discussed
15 in the course of the charge conference. I think that is
16 clear.

17 Secondly, don't argue law on your summations,
18 either of you. Stick with the facts. Don't intrude on
19 my functions.

20 What do you want to say?

21 MR. JOSSEN: Your Honor, with respect to
22 defendant's Request No. 3, I presume that the Court is
23 not going to give that instruction?

24 THE COURT: People v. Warren charge? No,
25 I don't think I will. Some day the circuit may change its

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2 position on that charge. It is a very good New York
3 State charge but I don't have to use it.

4 Anything else?

5 MR. GALLOP: In Request No. 9, your Honor,
6 which I requested, is that going to be covered in govern-
7 ment's Request No. 1?

8 THE COURT: Yes, indeed. Not in the
9 words that you submitted but I will cover that.

10 MR. JOSSEN: I will take exception to the
11 last paragraph of that request if your Honor intends to
12 give it in substance.

13 THE COURT: He already paid his tax. The
14 last paragraph is irrelevant.

15 I will point out to them substantially as
16 requested as in your Request No. 1.

17 Well, all right.

18 How long will you want for your summation?

19 MR. JOSSEN: Your Honor, I would like
20 thirty-five or forty minutes for my opening and fifteen
21 minutes for rebuttal.

22 THE COURT: Rebuttal has to be restricted
23 to rebuttal and nothing beyond.

24 MR. GALLOP: An hour, your Honor.

25 THE COURT: We are going to be interrupted

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2 by lunch.

3 MR. JOSSEN: Would the Court consider the
4 possibility of taking an earlier lunch?

5 THE COURT: Off the record.

6 (Discussion held off the record)

7 THE COURT: I think I better begin now
8 in view of my scheduling circumstances.

9 MR. GALLOP: Would you indicate to the
10 jury at the outset when the luncheon break will occur?

11 THE COURT: Is it necessary? Is it helpful?
12 If you want me to.

13 MR. GALLOP: I would like you to.

14 THE COURT: All right, I will do that. I
15 don't see any point in it but if you want it I see no
16 reason why I can't accommodate you.

17 MR. JOSSEN: May I have five minutes
18 before we start?

19 THE COURT: Yes, but only five.

20 (Recess)
21
22
23
24
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2 (In open court - jury not present)

3 MR. JOSSEN: Your Honor, just so it is
4 clear and we avoid any potential problem during my summation.

5 I have in the course of our recess separated
6 the commission advices which I believe are the Defendants
7 P-3 into two stacks and we have placed them in the order
8 which they appear on the two separate tapes. I intend
9 to make reference to them in my summation to the jury.
10 I advised Mr. Gallop of that.

11 MR. GALLOP: You will make reference
12 that you did that during the recess.

13 MR. JOSSEN: I will make reference that
14 I have done it and not when I did it.

15 THE COURT: All right, bring in the jury.

16 (In open court - jury present)

17 THE COURT: Members of the jury, our
18 procedure now will be in a moment or two you will hear
19 summation from the government. Following that, you will
20 hear the defense summation and then the government's
21 rebuttal summation. Then when that's all finished, you
22 will hear my instructions as to the law.

23 Our scheduling is such that we will hear
24 only part of this before lunch. Ordinarily, I am reluctant
25 to interrupt summations, but I may be doing that today and

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2 I want to caution you one more time.

3 Keep an open mind until you have heard
4 everything. Until you have heard both sides and until
5 you have heard the Court's instructions as to the law.
6 Bear in mind you will be going out to your luncheon
7 recess during the course of these summations. We will
8 now begin with Mr. Jossen, you may make your closing
9 argument on behalf of the government.

10 MR. JOSSEN: Thank you, your Honor.

11 May it please the Court, Judge Brieant,
12 Mr. Gallop and ladies and gentlemen.

13 Before I start the substance of my remarks,
14 let me thank you first for the close attention that each
15 of you have paid to the evidence that you have heard in
16 this short trial. You have been a very attentive jury
17 and that is something appreciated by everyone.

18 Now, I told you on Monday when this trial
19 began that the government would prove to you that the
20 defendant, this man, Harvey Meyers, intentionally, wilfully
21 and deliberately attempted to evade the payment of his
22 proper income taxes in the years 1971 and 1972.

23 Let me review with you now the evidence which
24 has been shown in this case which establishes that the
25 government has met that burden.

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2 Let us begin with the income tax returns
3 as they were actually filed by Harvey Meyers and his wife
4 Maria Meyers in 1971 and 1972. Let's look first at
5 Government's Exhibit 1 which is the 1971 return and look
6 at the Schedule C, line 1, where the total gross commissions
7 are reported for the year 1971.

8 You can see that the figure that appears
9 there is \$89,750. Where did that figure come from? That
10 was the same figure that was on the bottom of the one and
11 only tape which James Crumlish received from Harvey Meyers.
12 The tape on which in red in the writing of Harvey Meyers
13 appears the words "Total floor income" for 1971 and the
14 same amount.

15 The same tape that you heard from James
16 Crumlish he compared against the commission advices that
17 he was given by Harvey Meyers and that he found to be
18 accurate. That there were no extra advices left over.
19 He checked them all.

20 Now, let's look at Schedule C from Govern-
21 ment's Exhibit 2. This is the 1972 tax return. Again,
22 look at line 1, Schedule C of that tax return, which
23 shows total gross receipts of \$100,231. Where did that
24 figure come from? Again, from the one adding machine tape
25 given to Michael Rubin at Ernst & Ernst in 1973 for the

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2 total gross commission for 1972. The same figure that
3 you heard from Mr. Rubin Harvey Meyers confirmed and
4 verified when Michael Rubin and Harvey Meyers first met
5 in 1973.

6 You can see that from Government Exhibit 6-A
7 in evidence, which is the yellow sheet, the notes which
8 Mr. Rubin prepared during his interview with Harvey Meyers.
9 Right here, you can see gross receipts, floor only, \$100,230.5

10 By the way, as I refer to the exhibits,
11 remember that during your deliberations if at any time
12 you want to examine any of the exhibits yourself, you can
13 do that. All you have to do is send us a note through your
14 foreman, Mr. Deprezzi and we will send the exhibits into
15 you.

16 Now, we know, ladies and gentlemen, and
17 the evidence shows you that these two tax returns,
18 Government's Exhibits 1 and 2, and the total gross receipts
19 which are reflected on Schedule C are false. How do we
20 know that?

21 Well, you know for 1971 the figures are
22 false because you can take a look at Government Exhibit
23 19 in evidence. These are the twelve commission bill
24 settlement statement forms which accompany the monthly
25 check, the one monthly check that Harvey Meyers received

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2 for all of his commission from the Stock Clearing Corpora-
3 tion.

4 When you add these up, you will see that
5 in fact whereas there is \$89,750 reported on line 1 of
6 Schedule C for 1971, there was over \$119,000 in receipts
7 received for that very same year.

8 That figure was known to Harvey Meyers.
9 We know that because of Government Exhibit 21 in evidence,
10 the Form 600 for 1971, which Harvey Meyers filed with the
11 Stock Exchange in which on each form he put down the total
12 gross commissions he had received in the preceding month
13 and signed it. Records which were available to him,
14 records which he prepared.

15 Now, for the year 1972, we again know that
16 the figure that's on line 1 Schedule C is false. We know
17 that by looking at Government Exhibit 20 in evidence, the
18 commission bill settlement statements for the year 1972.

19 When you add these twelve settlement state-
20 ments, you find that whereas the total gross commissions
21 which are reported on line 1 Schedule C for 1972 is
22 \$100,231, in fact, that is over \$157,000 in total gross
23 receipts.

24 Again, this figure was known to Harvey
25 Meyers and you can tell that from the Form 600 that were

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1 filed for that same year Government's Exhibit 22 in
2 evidence, they are right here. Again, the forms filed
3 with the Stock Exchange over Harvey Meyers signature
4 reporting the gross commissions he had earned in each
5 of the months for that same year.
6

7 Just think about that for a few minutes,
8 ladies and gentlemen. Two sets, two independent sets
9 of documents. Twelve documents. Very simple forms,
10 which shows uncontrovertibly exactly how much money Harvey
11 Meyers had received in each of the two years in question
12 here.

13 Commission bill settlement statement forms.
14 Only twelve of them. Forms 600, only twelve of them.
15 Twelve for each year. Did Harvey Meyers used those
16 commission bill settlement forms, did he use the Form
17 600. Did he give those to his accountant or to his wife?
18 No.

19 What did he use? He used a stack of
20 commission advices. Why bother with a stack of commission
21 advices of 100 or more documents. Why bother with an
22 adding machine tape? Why? The answer to that is very
23 simple. Because Harvey Meyers knew that the information
24 which was reported to the Stock Exchange on the Form 600
25 and on the information that was reported on the commission

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bill settlement statements was not being sent to the Internal Revenue Service. That the only person who knew exactly how much money Harvey Meyers was receiving was Harvey Meyers.

Harvey Meyers was not a salaried employee who would receive a W-2 form as people do when they are working for an employer with a copy going to the Internal Revenue Service. He was not receiving income which was denoted on a Form 1099 with a copy going to the Internal Revenue Service.

Harvey Meyers was the only person who knew exactly how much in commissions he had received. He used those commission advices and he used the tape, the adding machine tape to cloud the issue when he presented the information to Ernst & Ernst. He used that so that he could fool Ernst & Ernst in the preparation of his tax return. That's what the evidence shows you.

Harvey Meyers decided to take advantage, to take a chance and to play with the integrity of our individual honor tax reporting system. That's what the evidence shows. He was trusting that the name of a major accounting firm, Ernst & Ernst, on a tax return would prevent him from getting into any problems. He was trusting that that would be a defense. He was trusting

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2 that perhaps he wouldn't be audited by the Internal
3 Revenue Service with the advantage of an Ernst & Ernst
4 name on the return. That's what the evidence shows you.

5 Ladies and gentlemen, it is often said that
6 when you serve on a jury, you don't check your common
7 sense at the door. You take your common sense and what
8 we mean by that is your common experiences, the vast
9 experiences that you have had in your everyday life that
10 help you to determine and evaluate how things seem to
11 you and how things occur and what things mean to you.

12 And common sense, that general background
13 that each of you brings with you to serve in this jury
14 tells you that a person knows that he has to know when
15 he signs a tax return the difference between whether he
16 has received \$89,750 in gross receipts and \$119,000 in
17 gross receipts, that's over \$29,000. And that a person
18 has to know when he signs a return that says he received
19 \$100,231 and in fact he has received \$157,000 in gross
20 receipts.

21 We are not talking about a couple of hundred
22 dollars. We are not talking about a few dollars. We are
23 talking about thousands of dollars. When you sign a
24 tax return with that kind of discrepancy on it, you have
25 got to know that the discrepancy is there. That's what

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2 the evidence shows you. A simple error? In two years,
3 back to back? Nonsense, absolutely astounding. It simply
4 defies belief. Particularly for a man who is so careful
5 with the records he keeps when they relate to expenses.

6 Ladies and gentlemen, during your deliberations.
7 I invite you to call in the jury room for Government's
8 Exhibits 24 and 31. These diaries for 1971 and 1972.
9 You take a look at these diaries and you see how incredibly
10 well documented they are. How a tag appears and a bill
11 appears for each page. How there is a particularized
12 entry on each page of both diaries in 1971 and 1972. A
13 person who keeps such careful records simply cannot blindly
14 sign a tax return without reading it, without reviewing
15 it in which there is such an enormous discrepancy between
16 what in fact he had earned.

17 Now, you heard from James Crumlish, the
18 Ernst & Ernst accountant and you heard from Michael Rubin
19 the Ernst & Ernst accountant. He told you what happened.
20 They told you that Mr. Meyers brought them the information
21 in 1971, for the 1971 and 1972 return.

22 You heard from Mr. C. for 1971 he
23 got the adding machine tape, the one tape here which is
24 Government's Exhibit 4 in evidence. The tape which I
25 said earlier and which you heard is in the handwriting

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1 of Harvey Meyers on the bottom. You heard from Mr.
2 Crumlish what he did. He took that tape and he compared
3 every single commission advice that he received against
4 it and it checked out. You heard from Michael Rubin
5 that in 1973 when he was preparing the 1972 return, again,
6 he had the adding machine tape and again, he had a
7 verification from Mr. Meyers that the figure on that tape
8 of \$100,231 was correct and again, Rubin recalled that
9 he had also received another piece of paper on which that
10 figure was done.
11

12 This is a case where the taxpayer, Harvey
13 Meyers, simply gave false information to the accountants.
14 Isn't that what the evidence tells you.

15 Now, let's look for a few minutes at what
16 you heard from Maria Meyers as to the defense or one of
17 the defenses in this case.

18 First of all, ladies and gentlemen, I
19 ask you to listen carefully to his Honor's instructions
20 in all aspects, but in particular to the instruction
21 that his Honor will give you with respect to the interest
22 or how you determine the credibility of witnesses with
23 respect to the subject of the interest of a witness.

24 Obviously, you will realize that of the
25 witnesses who testified in this trial, none had a greater

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2 interest not to tell the truth than Maria Meyers. Maria
3 Meyers, the wife of the defendant had the greatest interest
4 of anyone who testified here to not tell the truth to you.

5 Just think how conveniently she developed
6 an explanation for the unreported commission receipts
7 in each of these two years? Explanations which I will
8 show you in just a moment simply do not hold any water.
9 Explanations which are simply implausible, absurd and
10 contradictory.

11 In 1971 or with respect to the 1971 return,
12 Maria Meyers tells you that she prepared Defendant's Exhibit
13 Q, this undated tape which has no writing on it at all
14 and you can examine that, which has no figures that she
15 could specifically remember and that at the same time
16 she prepared Government's Exhibit 4, the one tape that
17 you recall James Crumlish said he saw in connection with
18 the commission advices.

19 Now, you remember this morning I asked Maria
20 Meyers to tell us whether there was any particular order
21 to the commission advices on the tape. She said, oh no,
22 there is no order, I just took them. You heard that
23 testimony.

24 During the recess we have separated out,
25 I believe as Defendant's Exhibit P-3, the commission

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2 advices that were identified by Maria Meyers. You ask
3 for them in the jury room and you compare the stacks of
4 commission advices to Government Exhibit 4 and Defendant's
5 Exhibit Q and you will see that the commission advices
6 that are on Government's Exhibit 4 are in chronological
7 order by months, starting with January as the very first
8 one. You will see that Defendant's Exhibit Q, this other
9 tape, has a stack of commission advices which are all
10 over the lot, which are simply at random. You look at
11 those and you will see if that doesn't show you how in-
12 consistent and implausible Maria Meyers' testimony is.

13 You remember something, ladies and gentlemen.
14 Where have all these documents been? You have heard
15 that these tapes, these slips have been since November
16 of 1973 with the defendant. Ernst & Ernst made no copies
17 of these. The only thing that was copied in Ernst &
18 Ernst file was Government's Exhibit 4. The one tape that
19 Michael Rubin took from the 1971 files of Ernst & Ernst
20 which showed the total gross receipts and which he copied.

21 Now, Maria Meyers tell you that for the year
22 1972 she prepared a different tape or a tape in a different
23 order. Now she tells you that the tape had been prepared
24 on the basis of brokerage concerns, rather than any other
25 order which she didn't recall.

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Ladies and gentlemen, it is very interesting about this explanation. You take a look at Defendant's Exhibit C, this tape. And the handwriting which appears here which Maria Meyers tells you is her own. You will notice there is initial L.F.R., L.F. Rothschild, you can find. There is a figure for \$5,001.60. In fact, when you examine the commission advices for 1972, you will see that L.F. Rothschild & Company was responsible for over \$50,000 of Mr. Meyers commissions in that year and if you compare it to the other commission slips and the other brokerage concerns, you will see that that is almost double the closest brokerage concern that Mr. Meyers did business with.

If you take a look at Government's Exhibit 4 and the advices from 1971, you will see that in that year L.F. Rothschild was responsible for one-third, approximately, of Mr. Meyers total gross commissions.

What that means is that L.F. Rothschild & Company was a major customer for whom Mr. Meyers was doing business. Maria Meyers said she was familiar with her husband's work. She said she went through all those commission advices and if she did and saw that figure, she should have to have known that that figure could not be correct.

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2 Now, Maria Meyers tells you that in 1972,
3 all of a sudden she prepared Defendant's Exhibit 7. Total
4 deposits. She says that she puts this in with the bank
5 deposit statements and puts it into an envelope. Of course,
6 I should stop for a minute and tell you that Maria Meyers
7 tells you very little. Maria Meyers didn't deliver any
8 of these documents in either year to Ernst & Ernst. Harvey
9 Meyers did.

10 Now, she tells you with respect to Defendant's
11 Exhibit N that she prepared this so that the accountant
12 would have it and the accountant would use it and the
13 accountant would check the information. That's what she
14 said.

15 But yet in 1971 when she is preparing the
16 same information, no bank statements, nothing there.
17 Here is another thing. Was this tape really around
18 in 1972?

19 Well, let's show you something interesting.
20 If you look at Government's Exhibit 6 in evidence, you
21 will see the papers that Michael Rubin identified as his
22 work sheets that he prepared the day that this audit
23 started in 1973. There is an adding machine tape here
24 and a list of the bank deposits. You recall Mr. Rubin
25 testified that his best recollection when he opened up the

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2 bank statements there was no adding machine tape here.
3 That's why this tape is here and that's why these figures
4 are down here. You determine, ladies and gentlemen,
5 Defendant's Exhibit N with those materials.

6 With respect, again, to the 1971 information,
7 only James Crumlish can tell you that he examined the
8 commission tapes -- the commission advices against the
9 one adding machine tape that he saw and he compared it
10 carefully and he said there was none left over.

11 And if these tapes, for example, for 1971,
12 Defendant's Exhibit Q, if Maria Meyers had prepared
13 two of them and wrapped them around the commission advices,
14 James Crumlish would have found it if it was there when
15 it was given to him when he opened the file. And Maria
16 Meyers who was helping her husband keep the books
17 would have clearly went over to Harvey Meyers and said
18 there are these two tapes and make sure you keep it
19 together and make sure there are two different figures.
20 Just convenient explanations, ladies and gentlemen.

21 Inconsistent, silly, implausible. Do
22 these explanations have the ring of truth to you? I
23 submit you can find that they do not. They are self-
24 serving empty statements from a person who has an enormous
25 interest in the outcome of this case.

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2 Ladies and gentlemen, you take into account
3 the demeanor of Maria Meyers as you saw her testify on
4 the witness stand. You recall her demeanor. You saw her
5 yesterday and you saw her today. You saw how anxious
6 she was to help her husband. How anxious she was to
7 anticipate a question and answer the question before it
8 was even asked. To go on and answer a question which had
9 never been asked. All she wanted to get out was to say
10 to you as much as she could to do something in her husband's
11 defense. You consider that testimony and you evaluate it,
12 ladies and gentlemen.

13 You know, ladies and gentlemen, in deter-
14 mining whether a man's actions are deliberate or are
15 wilful or are intentional, we don't have any kind of
16 machine that lets' you look into a person's mind. I
17 think that's fortunate. But we do have little things
18 that you can look at that can show you that a person's
19 conduct is deliberate. It is frequently what appears to
20 be the small things which when you put them together show
21 you clearly that a person's conduct is in fact deliberate
22 and intentional. It is the inconsistencies, it is the
23 alterations, it is the deceptions, the withholding of
24 information, and the double entries which are the badges
25 of fraud.

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2 Let's take a look at what are the badges
3 of fraud of Harvey Meyers in this case. We start with
4 two very simple exhibits, Government's Exhibit 9-A and
5 Government's Exhibit 9 which you all had an opportunity
6 to examine. Two checks.

7 Well, actually, it is one check, Govern-
8 ment's Exhibit 9-A and a copy of Government Exhibit 9.

9 Government Exhibit 9, we know from the
10 testimony of the representative of the Irving Trust
11 Company is the copy of the check as it actually went
12 through the Irving Trust Company at the time that it was
13 negotiated through.

14 Marcelino Fernandez told you yesterday that
15 this is the form that the check was in when he received
16 it from Harvey Meyers. What does it say? "Personal
17 loan". "Personal loan."

18 Now, Government Exhibit 9-A in evidence.
19 Now we know the alteration which you can see and you can
20 find was done in Harvey Meyers' handwriting. What does
21 the notation say now? "Personal investment in P.R., loan
22 for joint participation in business transaction".

23 Why is this significant? Because this is
24 the form of the check as it is shown to James Crumlish in
25 1972 to support a deduction of this \$25,000 as a business

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bad debt. You know why that is significant because you have heard testimony about it. That if this is a bad business debt, the whole \$25,000 comes off as a deduction. But if it is a non-business bad debt, if it is a personal debt, a personal loan, then it is limited to \$1,000 a year and you can draw the inference from that as to why it is so significant for Harvey Meyers to have altered Government's Exhibit 9-A to make sure he had some support for calling this \$25,000 Fernandez loan a business investment.

Only somebody who knows the significance of his actions and is familiar with the tax procedures, would have made that alteration. That's what the evidence shows you.

Let's look at another badge of fraud. Take a look at Government's Exhibit 24 in the 1971 diary and turn to the entry which says Wednesday, December 29th. It says "One, Mr. and Mrs. Fernandez, Two, Mr. and Mrs. Meyers Re: Investment in Dominican Republic and possible loss of investment." It is a figure of \$109 and a dinner receipt.

Let's assume this dinner took place in Puerto Rico and had anything to do with the \$25,000 investment.

Let's turn to Government's Exhibit 31, the

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1972 diary. Take a look at January 1, 1972. This \$109 not claimed on 1971 tax re: Investment in Dominican Republic with Mr. Fernandez and trying to see if any of \$25,000 investment could be recovered.

Again, the same receipt that you see in December 1971 and listed as a deduction now, it is back here in January 1, 1972. But was that particular \$109 taken off? Sure, because you can take a look at the tape which is attached to Government's Exhibit 24 in evidence and when you look at the bottom figure, the last entry is \$109. That total, \$5,228.92 is to the penny -- I'm sorry, it is probably up by 18 cents to that which you find on Government Exhibit 1, the tax return on Schedule C as an item of expense for travel and entertainment.

A badge of fraud. A double entry. Taking the deduction twice. A small thing, yes, but when you add the small things together, they show you the nature of a person's actions and their intentional actions.

Now, let's look at another badge of fraud. I return to Government's Exhibit 31 again. Take a look at the entry for July 24, 1972 -- July 29, 1972. You will see if you look at the preceding pages that they all refer back to July 29, 1972. Here there is a reference to a trip to St. Martin, Re: Purchase of refrigeration

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2 plant. There is a deduction here of \$459.45. You heard
3 from Marcelino Fernandez that the only person who had
4 business in St. Martin when he went on that vacation trip
5 with Mr. and Mrs. Meyers was Marcelino Fernandez. Not
6 Harvey Meyers, but here he is taking it off as a deduction
7 in his diary for travel and entertainment.

8 Sure, very carefully and well documented
9 when it comes to expenses but not when it comes to
10 income.

11 Badges of fraud, ladies and gentlemen,
12 deliberate acts, small amounts of money. But they show
13 you when you look at them together that a man's actions
14 are intentional.

15 Why Harvey Meyers even told Michael Rubin
16 in 1973 when he was preparing the 1972 return and you can
17 see the entry in Government's Exhibit 6 in Mr. Rubin's
18 notes that Harvey Meyers wanted to take off as a deduction
19 some money for travel in connection with verifying a loss
20 of the \$25,000 Fernandez loan in 1972.

21 In the same year, which the evidence shows
22 you, that \$25,000 was repaid. Another badge of fraud.
23 When Harvey Meyers' scheme started to unravel in November
24 of 1973 when the Internal Revenue Service started the
25 audit of Mr. Meyers' return for 1972 and when the discrepancy

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2 was determined as to what was in the bank account and what
3 was on the gross receipts, what was Harvey Meyers explana-
4 tion at the time?

5 You heard that from Mr. Michael Rubin. He
6 said that Meyers gave the explanation on two occasions.
7 First on the phone and then when he came into the office
8 in the presence of the Revenue agent, Frank Grau. You
9 remember that testimony. What was it? An explanation
10 that the money came from the father, from Harvey Meyers
11 father who was supposedly incompetent and the money was
12 supposedly handled by Harvey Meyers to help his father
13 out. Or money that came for his children. But in either
14 event Harvey Meyers is telling the Revenue agent and
15 telling the accountant that these are non-sources of
16 money.

17 And yet you heard from Maria Meyers that
18 all the money that goes into the Irving Trust Company
19 account, Defendant's B, the bank statements, consist of
20 Harvey Meyers only commission checks that he gets every
21 month for the years in question.

22 This brings us to the subject of the
23 Fernandez loan itself.

24 Now, I want you to bear in mind and I will
25 ask you to do this. That whether the \$25,000 loan was in

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2 fact a business bad debt or was not a business bad debt,
3 the evidence shows you that when that money was repaid,
4 as you know it was in 1972, that Harvey Meyers was required
5 to declare it as income on his 1972 return. You can see
6 that he knew it. You can see that he was aware of that
7 loan because there were entries in his 1972 diary talking
8 about efforts to try and recoup the loan. Efforts to
9 try and verify the loss of the money. Because he is telling
10 Michael Rubin in 1973 that I want to take a deduction for
11 trying to verify the loss of that loan. So, that money
12 was required to, but of course was not declared on the
13 1972 tax return regardless of whether it was a business
14 bad debt or not.

15 But, now, in examining the Fernandez loan,
16 I submit to you that you can look at that transaction
17 from two different perspective and two different levels.
18 Let's proceed to do that.

19 First, you can consider the Fernandez
20 transaction as the records were actually recorded in the
21 account of Frozens, Incorporated and by Fernandez.

22 First, Mr. Fernandez gets Government Exhibit
23 9 in this form, the \$25,000 in July '71, together with
24 this note, Government's Exhibit 14, a handwritten note to
25 Marcelino Fernandez saying that this is a personal loan,

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2 non-interest bearing and is to be returned as soon as you
3 can.

4 MR. GALLOP: I don't want to interrupt
5 but you said from Marcelino Fernandez.

6 MR. JOSSEN: To Marcelino Fernandez from
7 Harvey Meyers in Harvey Meyers' handwriting.

8 That is a strange position to be taken for
9 a business venture. Non-interest loan to be returned
10 at your convenience.

11 Marcelino Fernandez acknowledges that
12 receipt of the \$25,000 with this cable of July 24, 1971
13 which is Government's Exhibit 15. He indicates here
14 that he has gotten the money.

15 Now, we know that in 1971, in December of
16 '71, Marcelino Fernandez pays back interest on that loan,
17 interest in the amount of \$1,095.89. That's right here,
18 Government Exhibit 10. It is payable to Alexandra
19 Meyers and we will come to that in a second.

20 You remember Mr. Fernandez testified that
21 he was told to use the name by Harvey Meyers. In 1972
22 the whole \$25,000 was repaid. We see that in Government's
23 Exhibits 11 and 12, which are the two checks separately
24 for \$10,000 and then for \$15,000. One in September and
25 one in December, made out to M. Meyers, Maria Meyers and

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2 negotiated through accounts owned by the Meyers in the
3 Chase Manhattan Bank.

4 At the same time in December of 1972, a
5 \$250 check which you heard from Mr. Fernandez was
6 interest and this check is also made out to M. Meyers
7 and negotiated through a Chase Manhattan account.

8 Now, we know what those checks were for,
9 because Marcelino Fernandez obtained receipts. Govern-
10 ment Exhibits 16 and 17. You can see on each of these
11 receipts, one is in September and one is in December.
12 That they are talking about the repayment of the \$25,000
13 and it is acknowledged, right here, by Maria Meyers and
14 by Harvey Meyers, the defendant. Each of these acknowledging
15 payment for the loan.

16 Now, that's the way the transaction appeared
17 on the books of Frozens. But now we know there is another
18 level to this transaction. That level consists of
19 Government's Exhibits 28, 29 and 30. The letters which,
20 as you heard from Marcelino Fernandez, he prepared at the
21 request of Harvey Meyers to call this a business venture
22 and to tell Harvey Meyers that the loan had gone bad.

23 Of course, we know, as the evidence shows
24 you, that the loan had never gone bad. According to
25 Marcelino Fernandez whose testimony you heard, Harvey Meyers

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2 never asked him for repayment of the loan in 1971.

3 Marcelino Fernandez testified that he was in a position
4 to repay that loan on reasonable notice and in fact he
5 did, in September and December of 1972.

6 We know from Marcelino Fernandez that these
7 letters were not written on the dates that appear here.
8 In fact, Marcelino Fernandez, I believe, and it is your
9 recollection that controls, testified that he recalls
10 preparing them all on one day. Why does he prepare the
11 letter? Because Harvey Meyers asked him to. When does
12 he prepare them? Just look at how this ties in and you
13 will see the connection. He prepares the letter sometime
14 between December 1971 and October 1972.

15 What else is happening in that time period?
16 What else is happening, is that Harvey Meyers has gone
17 to James Crumlish at Ernst & Ernst to have his returns
18 prepared. He shows him Government's Exhibit 9-A, the
19 altered check and Crumlish properly says to him, where is
20 there any verification that the loan is bad and where is
21 there a verification that the loan is in fact for business
22 purposes.

23 What happens, Crumlish is shown these three
24 letters, because Harvey Meyers asks Marcelino Fernandez
25 for the letters because he knows he needs the documentation

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2 in order to take them for deduction.

3 Now, what is the connection to the \$25,000?

4 Well, just think, ladies and gentlemen. What happened
5 here, the evidence shows you, is that Harvey Meyers
6 parked, if you will use that term, \$25,000 of the money
7 which you can find he attempted to evade in income tax
8 for 1971 with his brother-in-law, Marcelino Fernandez.
9 He wanted to get that \$25,000 away from him. That's why
10 he sends it over to Fernandez. To get it away from his
11 own books and records.

12 Then he will be able to get the \$25,000
13 back as a loan, as it comes into the savings account,
14 rather than the checking account, the savings account of
15 his wife and his children and his own account. The
16 money comes back and it looks like a normal loan. But
17 now Harvey Meyers gets another idea because the evidence
18 shows you he got greedy. Not only does he decide he
19 wants to avoid the \$25,000 as income in '71, he decides
20 he wants to take it as a deduction. So to take it as a
21 deduction, he needs the falsified records. That's why he
22 altered the check and brings it to Crumlish at Ernst &
23 Ernst and that's why Government's Exhibits 28, 29 and 30
24 get prepared to verify that deduction in 1972 on the 1971
25 tax return. That's what the evidence shows you, ladies

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2 and gentlemen.

3 I remind you again, that whether that
4 \$25,000 be considered as a legitimate business bad debt
5 and the evidence shows that it was not, the fact remains
6 that the evidence shows you that the \$25,000 Harvey knew
7 about, Harvey Meyers knew about it when it was repaid to
8 him in 1972 and he was required to declare it as income.
9 His failure to do that shows you that all the rest of
10 his actions as well were deliberate and intentional.

11 Now, ladies and gentlemen, after the
12 luncheon recess, Mr. Gallop will be up to argue to you
13 and then I will have an opportunity to respond briefly
14 to some of his arguments.

15 Let me ask you to be careful not to have
16 your attention removed away from the proper area of these
17 issues and not to be distracted by side issues in this
18 case.

19 Ladies and gentlemen, I submit to you, when
20 you deliberate, and when you focus on Harvey Meyers'
21 actions and his conduct and on the amount of understatements
22 here and on the badges of fraud that I have gone over
23 with you, on the fact that Harvey Meyers had very simple,
24 very plain records to show him precisely how much money
25 he earned, but he deliberately did not use those records.

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2 When you consider the fact that he was
3 repaid the \$25,000 in 1971, having taken it as a deduction
4 in 1971 and aware of it and having taken it under question-
5 able circumstances to start with, you will quickly see
6 that Harvey Meyers conduct was deliberate and intentional
7 and wilful and designed to attempt to evade taxes which
8 are imposed on all of us.

9 I am confident that when you return from
10 your deliberations, you will return with a verdict that
11 Harvey Meyers is guilty as charged in each count of the
12 indictment.

13 Thank you very much for your attention.

14 THE COURT: Members of the jury, I would
15 like you to go in recess for your lunch and come back
16 at around five minutes of two.

17 At the risk of repeating myself and only
18 because it is so important, I will say to you one more
19 time, keep an open mind. Don't discuss the case because
20 you haven't heard everything yet.

21 You may be excused for lunch.

22 (Jury left the courtroom)

23 THE COURT: All right, we will be in recess
24 until about five minutes of two.

25 (Luncheon recess)

A F T E R N O O N S E S S I O N

(In open court - jury present)

THE COURT: Good afternoon members of the jury.

Mr. Gallop, you may now make a closing argument on behalf of the defendant.

MR. GALLOP: Your Honor, Mr. Jossen, Mr. Hartnett, ladies and gentlemen of the jury

Now, this is actually my first, last and only time to really discuss the case with you. You have heard the evidence. It has been a relatively short trial and I think you all can recall the testimony as well as I can.

As I go through my summation, I am going to refer to the testimony. Being a human being, I may be in error. It is your recollection which controls and I don't mean to mislead you in any way. If for some reason your recollection differs with mine.

By the same token, I am sure there are questions in your mind which have occurred during the trial that I will try to answer. But again, I can't read your mind and I am going to attempt to touch upon what I consider to be all the important points. If I leave

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2 something out, appreciate the fact that I am not doing
3 it intentionally but obviously I cannot know exactly
4 what may have been troublesome areas of this case for
5 you that you would have liked me to comment on. So,
6 again, I will apologize.

7 Mr. Jossen will have another opportunity
8 to speak after I conclude and I want you to understand
9 there will be no further opportunity for me and I will
10 do my best to cover what I think is important from my
11 client's point of view and important insofar as having
12 you understand this case.

13 I will try and go through things in an orderly
14 fashion. But as often happens I may get excited and I
15 will jump around. You have to bear with me.

16 I want to make a comment out of order
17 about something made in Mr. Jossen's summation because I
18 think it might be indicative of what I feel this case is
19 all about. Because if we all were as cunning as the
20 government would make us out to be, if we all would have
21 the foresight and the gile and the wile to understand all
22 the nuances that are now portrayed to us, I think it does
23 not bespeak about the real world.

24 Mr. Jossen said don't leave your common
25 sense out of the courtroom. I subscribe to that but I

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2 would like to go one step further with you. Don't leave
3 the real world outside this courtroom. You are faced
4 with a very, very difficult task. That is to take the
5 real world as it was five, six years ago and recreate it
6 in an anticeptic theater, not really knowing the emotions,
7 not really knowing all the nuances. It is a very difficult
8 thing.

9 In understanding this case, understand that
10 this case didn't happen here. It happened in 1971 and
11 people with all their fallibilities, all their prejudices,
12 are trying to recreate for you what happened.

13 I am sure on both sides of the ledger, that
14 there was not total recall. I am sure that there are
15 things that people said that on reconsideration they might
16 not say again, because it all goes back to one very, very
17 fundamental and basic principle. We are human beings
18 and we are fallible people. We do not operate perfectly.
19 We don't often take the most intelligent approach to
20 things. Where there is a choice of two alternatives, it
21 is not written anywhere that a human being always takes
22 the most wise choice. That's true of life within the
23 confines of this case and within all our lives.

24 I want to give you an example of what I
25 was referring to. Mr. Jossen wanted to make a point to you

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2 in his summation and he talked about the tape that Mr.
3 Rubin had made and that's this tape right here. When
4 you are in the jury room, of course, you will be able to
5 examine these exhibits.

6 Again, a lot of these things might be
7 mysterious to you because we are talking about things
8 we are looking at and you can't see it. I apologize for
9 that.

10 This tape was referred to by Mr. Jossen.
11 I think what he said was the existence of this tape should
12 prove to you conclusively to the degree that you should
13 be able to convict my client that no tape accompanied the
14 statements when they were delivered to Mr. Rubin.

15 If you recall that, he said, why would Mr.
16 Rubin have run this tape if Maria Meyers had accompanied
17 a tape with the bank statements?

18 Now, stop and think for a minute. I think
19 you will understand my whole approach to this case. Mr.
20 Rubin testified that he ran a tape to check the Internal
21 Revenue agent's computation. Do you recall that? He
22 said, Mr. Grau had gone through the bank deposits and come
23 up with a large figure and questioned it and that Mr.
24 Rubin, because of that question, ran his own tape.

 Now, on one hand Mr. Rubin speaks as an

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2 attorney and CPA, a man of high standing, integrity,
3 intelligence from Ernst & Ernst and does the right thing
4 by checking Mr. Grau's tape. That's one side of the ledger.

5 But now when the defendant's integrity is
6 at stake, now he says obviously there would be no reason
7 to check Maria Meyers' tape and if the tape had accompanied
8 those bank statements, you wouldn't find this tape in this
9 particular file. I think that's the key to this case.

10 We are now judging people by standards
11 that don't exist in the real world. Because what may be
12 good on Tuesday becomes horrendous on Wednesday. Now it
13 is nonsense.

14 I think he was perfectly right in checking
15 Mr. Grau's figure. After all, he is representing Harvey
16 Meyers. He should not accept the IRS figures. I think
17 he is equally justified in checking Mrs. Meyers figures.

18 But when it helps the defendant, it can't
19 be done. When it helps the government, why, of course
20 he did it.

21 I think this is what you have got to under-
22 stand when you view the evidence in this case. We are
23 not striving for perfection. We are not trying to make
24 the perfect individual. We are dealing with a human
25 being that has all the fallibilities and understand it

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2 from that point of view.

3 I will get back to this later because there
4 are other things I would like to comment with regard to
5 that.

6 This case reminds me of a silent movie
7 called The Great Dictator. I don't know if anybody saw
8 it. I remember seeing it as a child. Where a big cannon
9 ball falls out of a cannon and there is Charlie Chaplin
10 who is the private and there are lieutenants and captains
11 and generals. The general says to the captain you defuse
12 it and the captain says to the lieutenant and the lieutenant
13 says to the sergeant and finally it comes down to Charlie
14 Chaplin.

15 Everybody here is passing the buck. Every-
16 body here is perfect except for Harvey Meyers and he's
17 supposed to be perfect. Everybody else's story can be
18 accepted without question, without any understanding of
19 all of the problems we have in understanding and recalling
20 events from five years ago, except Harvey Meyers.

21 So, I think you ought to appreciate that
22 in this case a lot of people are bailing out on Harvey
23 Meyers. Because I don't see how under any set of
24 circumstances any of us can come to the conclusion that
25 Ernst & Ernst carried out their obligation.

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2 Now, in considering what I have to say now
3 and what I said in my opening statement, the law has two
4 key principles which I will comment on briefly. The Judge
5 will give you the law of the case. But I think to under-
6 stand my summation, I must make this clear to you.

7 There is a presumption of innocence. That
8 means Harvey Meyers as he sits in this courtroom and as
9 he sat throughout the trial and into your deliberation
10 is presumed innocent. He need not prove anything.

11 Now, I beg of you don't pay lip service
12 to it. Believe it. It is a rule that you must believe
13 in. That presumption is only overcome if the government
14 satisfies you beyond a reasonable doubt. That reasonable
15 doubt is that doubt which causes reasonable and prudent
16 people to hesitate. Not to change your mind but to
17 hesitate in the most important affairs of your life.

18 Now, understand, Harvey Meyers need not
19 prove his innocence and anyone who is charged with a
20 criminal act in this country need not prove their
21 innocence. So, it isn't necessary for any defendant
22 whether it be you or I or Mr. Meyers to satisfy you as to
23 his innocence.

24 The burden stays with the government to
25 prove his guilt beyond a reasonable doubt. And view this

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2 evidence and see if some of the things here would not
3 cause you to hesitate in the most important affairs of
4 your life.

5 You know, Ernst & Ernst and his Honor
6 commented to me that we all know that Ernst & Ernst are
7 a prestigious firm. They are a prestigious accounting
8 firm. Let's start off with a very basic premise.

9 The government's premise is everything he
10 is doing is headed for that since he is a crook. Well,
11 he certainly picks a peculiar firm to go to. He picks
12 one of the biggest and most prestigious firms in the
13 United States. You would think common sense would say
14 to you if I want to put something over my accountant,
15 let me find an accountant that needs me as a client.
16 Where I am important enough to him that he will say
17 well, I better look the other way for this guy because I
18 will lose a good account.

19 I don't think it can possibly be conceived
20 that the large prestigious firm of Ernst & Ernst was
21 going to do anything for Harvey Meyers. I think common
22 sense dictates that Harvey Meyers went to the best. Let
23 me use this analogy with you in this case.

24 When you are sick and you are really
25 concerned about it, you go to the best doctor you can find.

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2 You don't want to go to a doctor who is going to say
3 there is nothing wrong with you. You don't want him to
4 pay lip service to you. You want to go to a specialist
5 who is going to look into you and make sure there is nothing
6 wrong with you. You want to go to a doctor who is not
7 going to take your word for it.

8 I mean, I imagine, going to a doctor and
9 saying I got a pain here. Would the doctor say "Let's
10 operate?" They would test, they would analyze, take your
11 case history, consultation and they might hospitalize
12 you for tests. That's the kind of treatment when you go
13 to a top man.

14 Isn't that the kind of treatment that a
15 taxpayer wants when he goes to Ernst & Ernst? Doesn't
16 he want to come in there and say, look, this is not my
17 business. I am a stock broker, I am a plumber, I'm a lawyer,
18 but I'm not an accountant and I'm not a tax man. I rely
19 on you and I will use the expression that we all use
20 "You're the doctor." You tell me, I am not going to
21 tell you.

22 That's where he went. He didn't go to some-
23 body to put something over on. He went to somebody who
24 could say to him, Mr. Meyers, we don't fool around like
25 that. Mr. Meyers, you are not doing it right. Mr. Meyers,

1 jpjw

2 this is what you have to do. Because we don't need you,
3 you need us.

4 And so let's look and see who the doctors
5 were.

6 Well, first, I might comment. What do the
7 doctors charge? They charge a pretty good fee for preparing
8 a tax return. So, again, I think there would be an
9 indication there. If you just want to shovel everything
10 through a mill and grind out a tax return, you are
11 better off going to an H & R Block or to some other tax
12 preparer.

13 But, although as it came out in this trial,
14 Ernst & Ernst did little more than that. I think common
15 sense dictates that you probably expected more from them.
16 You probably expected them to go more analytical. To take
17 a better interest in you. That's what common sense
18 dictates.

19 So, even the nature of the fee would seem
20 to imply that Harvey Meyers was not looking to pull a
21 fast one, but was looking to get good professional
22 advice.

23 So, the two doctors assigned to him are
24 Mr. Rubin and Mr. Crumlish. I think we ought to start with
25 Mr. Rubin, only because Mr. Rubin testified first.

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2 Now, I don't want to throw things out of
3 kilter. I think you understand that it is the second
4 year that Mr. Rubin handled, 1972. But he testified
5 first. I think one thing and I hope one thing you
6 noticed in his testimony and it became apparent to me and
7 again in Mr. Crumlish's testimony. That is, that
8 government witnesses seem to have selected memories.
9 A document is put in front of them and I say does this
10 refresh your recollection? The recollection is refreshed.
11 I show him a document, I don't remember. It just is a
12 miraculous thing how the witnesses are like chameleons.
13 As soon as I ask them to remember something, fog. When
14 the government asks to refresh their recollection,
15 recollection refreshed.

16 I don't understand it but I think it was
17 apparent from Mr. Rubin's testimony and from Mr. Crumlish's
18 too. Even their selective memories, how Mr. Crumlish
19 was able to remember in rebuttal testimony that there
20 was no other tape when I went over with him in my cross
21 examination all the documents.

22 If you remember, the largest pile, he
23 couldn't remember. All of a sudden now, he is able to
24 realize five years ago a pretty substantial amount of
25 papers and receipts and tapes and say he knows with

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2 certainty where such an important issue is at stake that
3 nothing was there.

4 I think it defies credibility that his
5 memory in one case can be so specific and then to the
6 mountain of documents that he had, he says, I don't
7 remember.

8 But isn't it funny, it is the one document
9 that the government wanted him to identify. That jumped
10 out of the pile on rebuttal.

11 Now, I don't think it can be contended that
12 Ernst & Ernst and Mr. Rubin did a good job. But yet,
13 we can say well, after all, they don't have to do a good
14 job. They are only human. Ernst & Ernst couldn't know
15 that Mr. Rubin had personality problems. Ernst & Ernst
16 didn't know that Mr. Rubin was seeing a psychiatrist.
17 Ernst & Ernst couldn't know these things. So it
18 wasn't their fault.

19 Well, what are we saying then? We are
20 simply saying that Ernst & Ernst is capable of making
21 mistakes but Harvey Meyers, no way. He can't do anything
22 wrong. Maria Meyers, no way, she can't do anything wrong.
23 They are held to a different standard and again I recall
24 to you the burden of proof is on the government. They are
25 presumed innocent.

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2 Now, what is Mr. Rubin's explanation with
3 regard to the bank statements? To me this is baffling.
4 These are the bank statements. Use your common sense.
5 Like we could fold them and put them in envelopes. I
6 don't see how this pile could be much thicker than that.
7 Because really it is quite small, with or without the
8 envelopes.

9 Mr. Rubin's explanation as to why he had
10 these bank statements in his possession is that Mr. Meyers
11 told him to store them. For example, I put this simple
12 proposition to you. Do you think if Harvey Meyers were
13 to have given that explanation the government would not
14 come before you and say, absurd, store twelve, fifteen
15 sheets of paper. This is the reason they were delivered
16 to Mr. Rubin for storage. And that was his testimony.

17 And if you look at the bank statements, you
18 will see there are very few deposits and most of the
19 deposits are quite big, \$14,000, \$9,000, \$14,000. They
20 represent for the most part all of the checks which were
21 deposited, that he got from the clearing house. It is
22 right there and it was delivered to Mr. Rubin.

23 But it wouldn't fit into the government's
24 scheme of things if Mr. Rubin analyzed it and checked it,
25 because he would pick up the money. We are trying to say

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2 Harvey Meyers was trying to hide the money. So, how do
3 you get around that?

4 Mr. Rubin says I didn't look at them. They
5 were delivered to me for storage. I say this is absolutely
6 absurd and if you believe that, folks, you are going to
7 convict my client and I am probably wasting my breath
8 for the rest of my summation. Because that is the most
9 ridiculous thing I have ever heard.

10 Even Mr. Rubin admitted that it is the basic
11 function of any audit to go right to the commercial bank
12 deposits. And didn't Mr. Grau go right to that? And
13 if Harvey Meyers was supposed to be putting a fast one
14 over on the accounting firm, would he give them these
15 deposits? Which they spell it out. But they are going
16 to say, he is even slicker than that. He gave it to them
17 knowing they wouldn't look at them. Ernst & Ernst?
18 He certainly picked a peculiar firm to pick that one on.

19 Maybe they will say well, he knew that Mr.
20 Rubin had a personal problem and he was seeing a psychiatrist
21 and he knew that. He didn't pick Mr. Rubin. Mr. Rubin
22 was picked for him.

23 Mr. Rubin says he never checked the tape.
24 He said, I believe, that it was Ernst & Ernst policy not
25 to check documents. Again, is he a butcher? They are a

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1 prestigious accounting firm. What do you need them for
2 if you don't need them to check your work? To take the
3 stuff and put it on another form and feed it into a
4 computer?
5

6 Mr. Crumlish didn't say it was Ernst &
7 Ernst policy. He waffled on it a little bit. He said
8 you either do or you don't. I submit to you that that is
9 absurd. If you bring your records to an accountant and
10 especially a firm of this quality, you expect your records
11 to be gone over.

12 When you pay \$800, I think that's what you
13 are paying for.

14 Now, another thing happened during Mr. Rubin's
15 testimony, which I find interesting. That is, Mr. Rubin
16 said that when Mr. Grau, he was the agent who was auditing
17 the return, checked the bank deposits and came up with
18 this large figure, Mr. Rubin called Mr. Meyers up on the
19 floor of the Exchange to come up and give an explanation.

20 MR. JOSSEN: Objection, your Honor.

21 THE COURT: Well, the jury's recollection
22 of the testimony will control. Nothing that the attorneys
23 say will take the place of your own recollection as to what
24 the testimony was.

25 MR. GALLOP: I believe there was a phone

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2 call from Mr. Rubin to Mr. Meyers. And the response to
3 that phone call, Mr. Meyers came to Mr. Rubin's office
4 when Mr. Grau was there and was asked to give an explana-
5 tion as to these bank deposits. I believe Mr. Rubin
6 said and if I am wrong I stand corrected, that he gave
7 two explanations.

8 Explanation one was that it could have been
9 money from his children's accounts that was transferred
10 and, explanation two was, I believe, assets of his
11 father that might be put into his bank account.

12 But then, if you recall, on cross examination
13 Mr. Rubin conceded that he gave three explanations. He
14 said it could have been his father's funds, it could
15 have been his children's funds or it could have been
16 from what they call an errors account, money going in.
17 But that Mr. Meyers said he wasn't sure at the moment.

18 Now, again, let's go into the real world
19 and let's look at the government's position that Meyers
20 is a crook, he's been figuring this out for years.
21 Because he did it in '71 too and he's sliding documents
22 in and winding them up and shipping them off. Pulling
23 this fast one on Ernst & Ernst.

24 Rubin calls him up and he says they picked
25 up something that looks like more money than we can account

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2 for. If Meyers has it in his mind the jig is up, is he
3 going to go straight to Mr. Grau and start giving him
4 explanations off the top of his head. If he is as cunning
5 a crook as he is made out to be, he will call Mr. Rubin
6 on the side and say I don't want to speak to that guy.

7 He comes in and reacts as a human being
8 would react in that situation. I can't figure it out.
9 Maybe it could be this, maybe it could be that, or maybe
10 it could be the other thing. I am not sure at the moment.

11 But the government takes that and turns it
12 inside out and throws it at you and said, look, he's a
13 crook. He gave us two explanations and they are both
14 wrong.

15 I say it was an innocent man trying to explain
16 something he didn't understand. He didn't understand it
17 because he didn't know what that represented at the time.

18 We lawyers have a word for an excited utterance
19 meaning something that is very believable. I think this
20 is it. He is confronted with speaking to Mr. Rubin
21 separately and he said what it was. I don't think that's
22 the actions of a criminal but the actions of an innocent
23 man. That's exactly the way it happened.

24 But Mr. Rubin puts it in a way, originally,
25 to make it sound as detrimental as it sounds. I think

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2 there is a reason for them to do that.

3 They may not have the same interest that
4 Mr. Meyers has in this case. Obviously, Mr. Meyers is
5 the defendant. They have a pride of professionalism
6 and knowledge of problems they might have created for
7 other individuals and perhaps some exposure as a result
8 of this.

9 I think they are looking to protect them-
10 selves. I think their testimony is guided by what's best
11 for Michael Rubin and what's best for Mr. Crumlish. So,
12 when the government asks them to remember, they remember.
13 When the defendant asks them to remember, a fog falls
14 over.

15 Getting back to this particular item. I
16 submit to you that this may not have been prepared at the
17 time that Mr. Rubin says it was prepared. Mr. Rubin,
18 mind you, had enough interest in this case to go to a file
19 that he wasn't even concerned about. He went to the '71
20 file, if you remember, and made a photostat of the tape
21 that Mr. Meyers had submitted the years before. But on
22 this he says he prepared a second file for the audit and
23 this was the audit file where he took out some of his
24 work papers from one file and put it into this file.

25 We only have Mr. Rubin's word that this

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2 particular tape was made on the date of the audit. It
3 is funny it is on top whereas all the other pages pertain-
4 ing to the order, power of attorney and the letter, are
5 on the bottom.

6 I submit to you something else. Taking
7 Mr. Jossen's analogy that he was just checking a row of
8 figures, well, how did Mr. Grau arrive at the figure that
9 Mr. Rubin was checking? I assume he made his own computa-
10 tion.

11 If Mr. Grau made his own computation, what
12 is all this writing all about. Why didn't he just check
13 Mr. Grau's computation. This is all of Mr. Rubin's
14 handwriting, where every deposit is analyzed and the
15 totals are analyzed. You can read it in the jury room.
16 It is far, far more than what would be necessary to
17 simply check what Mr. Grau did.

18 I submit to you that Mr. Rubin did it
19 at the same time with the realization that he screwed up
20 in this case and he should have picked up the additional
21 income and he is doing the best he can and I feel sorry
22 for him, he's a sick boy and that's his problem.

23 MR. JOSSEN: I object to that.

24 THE COURT: Overruled.

25 MR. GALLOP: But don't make it Harvey

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2 Meyers problem. There is no reason for all these
3 scratches and all these computations if all he wanted to
4 do was check Mr. Grau's figures.

5 I ask you to look at the other files of
6 Ernst & Ernst and I think you will find an awful lot of
7 billing and a lot dealing with computation. You will
8 not find except from what Mr. Rubin says you will find
9 in his tax papers but you won't find anything like that
10 from Mr. Crumlish.

11 Did Harvey Meyers fear an audit. Again,
12 start at the point 1. That this was part of a grand
13 scheme that he had the foresight to understand and weave.

14 Now, the audit comes. Did Harvey Meyers
15 fear the audit, did he try to stall the audit. Did he
16 try to put off or wait until he could to put off the
17 audit?

18 Mr. Rubin writes a letter and says "I was
19 able to get in touch with the federal agent who will be
20 examining your 1972 tax return. As you requested, we have
21 moved up the meeting date and we will see Mr. Grau on
22 November 12th at my office.

23 Does that sound like a guy who understood
24 there was a problem? Does that sound like a man who wants
25 to squirm and wiggle out of it? Isn't the normal reaction,

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2 let me put it off, let me put it off and let me see what
3 I can do in putting it off. Would he request let's have
4 the audit, if he knew. I doubt it.

5 But, again, the burden of proof lies with
6 the government to prove beyond a reasonable doubt
7 because Mr. Meyers is presumed innocent. He is entitled
8 to the benefit of that. That doubt is just such a doubt
9 as would cause you to hesitate. I will put this question
10 to you, my friends.

11 It is now April 13, 1978 and you got to do
12 your tax return. Now, you have seen Mr. Rubin and you have
13 heard his testimony and you have heard Mr. Jossen's
14 arguments and you have heard my arguments. Would you
15 entrust to him the responsibility of doing your returns?
16 Or would you hesitate? Just hesitate.

17 Let's talk about the next fellow, Mr. Crumlish.
18 Mr. Crumlish, if you look at his file, he write very
19 little, because this man has the greatest memory in the
20 history of man. I don't think you will find much in his
21 handwriting in the file. I think there is one short note.
22 I believe it was written by someone else. This was all
23 written by Mr. Guetel, or something. The name is
24 right there, not Mr. Crumlish.

25 The only thing that Mr. Crumlish did was

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2 fill out those computer forms. No work papers, no computa-
3 tions, no nothing. Mr. Crumlish doesn't need it. He's
4 got everything in his head. He can remember everything.
5 He can remember everything in the file so he knows what
6 tapes were attached, what tapes weren't attached when the
7 government asks. But he also did something that I say
8 to you is literally astounding.

9 Just think and use your common sense, how
10 would you check this row of figures which I believe is
11 179 numbers. I can think of only two reasonable ways
12 that any human being and certainly any accountant could
13 conceivably check this row of figures.

14 There are two simple and obvious ways if
15 all of you come to the same conclusion if you have to
16 run it two ways. Either you run your own tape or you
17 check this tape, checking off each figure. I don't see
18 any other way that makes sense.

19 There is one problem. There is no separate
20 tape and there are no check marks. So, we have a man who
21 is an audit supervisor. I forget his title. Who says
22 he is able to sit at his desk and run through these
23 without losing track of all these numbers. I guess if
24 you really put yourself in a cocoon and really seal
25 yourself, maybe it is conceivable. But you are in a business

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2 accounting firm office situation.

3 Let's get back to the real world. He is
4 either going to make checkmarks or he is going to run a
5 tape. I submit to you, his explanation is not worthy of
6 belief. His explanation is simply to protect himself.
7 He is going to bail out on Harvey Meyers too. That he
8 never checked this tape. Mind you again, Mr. Meyers
9 does not have to prove his innocence. Is that the kind
10 of evidence that proves guilt beyond a reasonable doubt?

11 You know, it is funny. On the other tape
12 that Maria prepared, a big deal, there's no marks, she
13 didn't write on the tape anything.

14 Maria Meyers, the absence of any marks on
15 the tapes is a terrible thing. To Mr. Crumlish, the
16 absence of any mark -- well, that's perfectly all right.
17 Because everything Harvey Meyers does, twist around and
18 sink him with it. The rest of the witnesses, why, they
19 are above reproach.

20 Isn't it funny, my friends and unfortunately
21 this couldn't be denied by the government. This was in
22 Maria Meyers handwriting and Mr. Crumlish conceded this
23 because his handwriting was all over it. He checked
24 these figures and look what he did. He did what normal
25 people would do when he checked the figures. He put a

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2 check mark on it. It is certainly a lot easier to check
3 these few figures than this tape. Bring the real world
4 into the jury room.

5 Speaking of this exhibit, I guess it is a
6 good time to comment upon it. It is in Maria Meyers
7 handwriting. Mr. Crumlish wrote on it and there is no
8 question that he had it. I submit to you if we didn't
9 see these check marks and we didn't see Mr. Crumlish's
10 notes in handwriting, Mr. Crumlish would say I don't recall
11 ever seeing this document. But unfortunately he wrote
12 on it so at least I can present it to you without any
13 question that Maria Meyers did have an active part in the
14 preparation of her husband's tax returns.

15 That it is not a fabrication for a wife to
16 help a husband in time of need. She did it and he wrote
17 on it and it was in the file and there is nothing they can
18 do about it.

19 Now, Mr. Crumlish did 1971. Mr. Jossen in
20 his summation said two years, that defies belief, that
21 a mistake would happen two years in a row. That defies
22 belief.

23 First of all, they are two entirely different
24 mistakes. But I can only say let's get back to the real
25 world. We just had an oil well go up the coast of Norway.

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2 Multi, multimillion dollar proposition and I understand
3 they put the valve on upside down. That was one of the
4 causes of their problems. People do make mistakes. It
5 doesn't defy belief.

6 We had an accident today, two 747's crash
7 on a runway, with all the dials, with all the radar and
8 with all the tape recordings and all the controls, things
9 do happen. After they say, we thought it couldn't
10 happen.

11 But you heard Mr. Crumlish and you heard Mr.
12 Rubin. I don't think it defies belief that Mr. Meyers
13 was capable of getting good capable professional representa-
14 tion from those fellows. I think it would be more of a
15 coincidence if two good tax returns were prepared.
16 They were not capable of doing it. They were that type of
17 firm and that's the kind of treatment you got there.

18 There is something peculiar on this. I
19 will refer to it later on.

20 On Item 28, Mr. Crumlish wrote "Trading in
21 Beef Futures, Importing from Dominican Republic to Puerto
22 Rico."

23 If you look at the letters there is nothing
24 about beef futures. Then, I think on the tax return
25 schedule itself -- excuse me for a moment -- business had

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2 debt, funds loaned for unsuccessful Co transaction.

3 Borrower has left United States, legal fees, Co.

4 I asked Mr. Crumlish and he said commodity.
5 You look at this and you look at the letters and the
6 checks from Marcelino Fernandez and everything else and
7 see how that square peg fits into this round hole.

8 I submit that Mr. Crumlish's testimony was
9 just what the government would have him say. Because when
10 he wrote this up, it had absolutely nothing to do with
11 those letters. There is no unsuccessful commodity trans-
12 action. There are no futures, as he wrote on this. Trading
13 in Beef Futures.

14 I think he made assumption that there was
15 a trading debt that Mr. Meyers had and since he was a
16 member of the Exchange, he assumed it was a commodity
17 transaction. That's the way he put it down. But rather
18 than admit his incompetence, he portrayed it to the
19 government the way the government would have him portrayed.

20 We then come to Mr. Fernandez. You know,
21 everybody in this case who testified and who the govern-
22 ment is going to rely upon to convict Mr. Meyers, to prove
23 his guilt beyond a reasonable doubt, nobody comes in
24 unscathed. You see, everybody has their own axe to
25 grind. Mr. Fernandez is certainly a puzzle to me. I

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2 can't solve the puzzle.

3 But, my friends, remember one thing, it is
4 not my job nor is it Mr. Meyers' obligation to solve this
5 puzzle. The government must solve this problem by proof
6 of guilt beyond a reasonable doubt. Because every one
7 of us, including Mr. Meyers, is presumed to be innocent.

8 But the pieces just do not fit. And,
9 again, the government tried to drive something by you.

10 I will show you how simply the pieces don't
11 fit. They examine Mr. Crumlish and they asked him about
12 personal loans and business loans. When Mr. Buchbinder
13 took the stand, he also was asked about personal loans and
14 business loans. It was made very clear and I assume
15 that most of you know that anyway.

16 A business loan is deductible and a personal
17 loan is not taxable. The inference is that Mr. Meyers
18 wants to get the business loan he is not entitled to and
19 he concocts this whole thing. Why in God's name if this
20 is this brilliant criminal, who could know that Ernst &
21 Ernst wouldn't open up the tickets, who could know that
22 Ernst & Ernst would simply accept simple figures and
23 would even give the bank statements without any fear that
24 he was that diabolical. Why would he make a telephone
25 call to his brother-in-law and say what he says. This is

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2 a personal loan, non-interest bearing and is to be returned
3 as soon as you can.

4 He writes a letter and says it is a personal
5 loan. Is this the criminal who is trying to develop a
6 business deduction? Why, we should have a fancy letter-
7 head, use this moeny in the business, sell the beef,
8 buy the beef, what it is. Why does he leave this path
9 behind him if he is the diabolical criminal that he is
10 supposed to be. Absurd.

11 But what does Mr. Fernandez do? He takes
12 the personal check, which was marked originally personal
13 loan. There is no dispute about it. He wrote a letter
14 and he puts it into the business. You can recall some
15 of the explanation he gave and I will get to that.

16 But he puts it into the business. He
17 turned it into a business loan. Again, my friends, we
18 don't have to prove anything. But are you satisfied
19 beyond a reasonable doubt? If this guy is trying to pull
20 a fast one on you, where are the trappings, why doesn't
21 he confess a personal loan.

22 Mr. Fernandez sends back statements from
23 the business, we'll use the funds and give an explanation
24 which I cannot repeat to you, because I don't understand
25 it as to why he took money that he knew to be personal
funds and put them into the business account.

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He explained to me several times but I don't understand it. He said he had a personal bank account. He said he took them as personal funds but he put them into the business so they wouldn't be considered a business loan. I mean it is just Alice and Wonderland.

Then he issues the checks and the receipts and everything else on the business. You know, it is funny, if this was the \$25,000 that was the personal loan, in his mind he can, he can say, well, I put \$25,000 into the business and I took \$25,000 out of the business. It is a wash and it should not be there.

But there was \$1300 or \$1400 in interest that came out of the business too. Mr. Meyers didn't allow them to keep the \$1400 that the business paid. The pieces to this paper don't fit but the only thing you can say about it, that makes sense and that is a family affair.

Let's bring the real world in. In the real world amongst family some very strange things happen. But Marcelino Fernandez, before he testified, was given immunity. I submit to you and pay attention to the Judge's instructions on that point. That Marcelino Fernandez had good reason to weave the tale he did to protect himself. Even at his brother-in-law's expense.

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He sat there, so sheepishly and whispered. This is a businessman with a substantial business throughout the Caribbean. Why this was Mr. Sugarthroat. He was so sweet and so quiet and so timid. He was a well educated businessman.

When Mr. Jossen said did you discuss business with your brother-in-law on all these occasions? No, money and taxes.

He had a two-word vocabulary, money and taxes.

I said, didn't you know that your brother-in-law was in the investment business and was a stock broker. Yes. You never discussed taxes with him. Money and business. That's all he had to say.

It's funny, if you know stock brokers, you can't keep them quiet in talking about business. But this is his brother-in-law. Why don't we want to say we discussed investment. I don't want in any way to get the government mad at me. They gave me the word immunity. I don't want to say the word business.

Two men meet and don't even discuss business. I even had to drag out of him the fact that he did have business interested in the Dominican Republic. But you had to drag it out of him.

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2 I submit to you that Marcelino Fernandez
3 has his own reasons and I can't give you the answers.
4 But you can't convict the defendant on speculation. You
5 have got to be convinced beyond a reasonable doubt.

6 The last thing I ask him and I think the
7 dead give-away about this guy was when I said, well, you
8 went to St. Martin and you went with your wife and you
9 went with Mr. and Mrs. Meyers. Did you take them to see
10 the refrigeration plant and he finally timidly admitted
11 that, yes, he went to take them to the refrigeration
12 plant.

13 I asked him what was so substantial as
14 a tourist attraction to see a refrigeration plant and if
15 it wasn't a business trip that you would go to take your
16 wife and your sister and her husband to see it. I say
17 to you it was absurd, but he wasn't going to give us an
18 inch because Harvey Meyers didn't give him immunity.
19 Harvey Meyers did not confer immunity on his brother-in-
20 law.

21 With regard to this \$25,000. Mr. Jossen
22 said something in his summation which I think is incorrect.
23 I want to correct it for you. He said Mr. Meyers was
24 parking this money and he explained it to you in such a
25 manner as if to imply that he was taking a double deduction.

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1 It is not true. If you believe it. I am not saying
2 you should subscribe to any of it. But the chart indicates
3 that there was a deduction taken and the way the govern-
4 ment picks this up is by saying it was repaid in the follow-
5 ing year and should have been picked up as income.
6

7 He didn't take the deduction for two years
8 in a row and by taking his own personal money and putting
9 it in his brother's account does not bring any consequence
10 in this and it is not inferred in any of the evidence
11 here. His taxes are based upon his income and not
12 what he loaned out.

13 By the same token, a big deal is made of
14 something. You are going to find out at the end of one
15 year and the beginning of another year, there are two
16 receipts. One is a carbon receipt and another is a tissue
17 receipt on American Express. There is not a scintilla
18 of evidence and a presumption of innocence here that
19 that deduction was taken twice.

20 Mr. Jossen pointed out regularly that it was
21 taken in one year and shown on the tape. There is not
22 one scrap of evidence to show that it was taken in the
23 other year. He is not being tried here for taking
24 deductions that he is not entitled to. They are just
25 trying to obscure the issue and say Harvey Meyers is a

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2 bad man, so don't believe anything he says.

3 There is not a scintilla of evidence.

4 Mind you, the accountants had the diary. So, if they had
5 the diary for one year, he wouldn't have the other one
6 in his possession. What would he do with this receipt.

7 So, he stuck it into the other book. But
8 there is no evidence that he took a double deduction, not
9 a scintilla of evidence.

10 You know, even so, I must comment to you
11 as intelligent human beings. If they took every executive's
12 diary for an entire year and went through it day by day,
13 every lunch and who he saw, do you think that every diary
14 would be given a clean bill of health and do you think
15 that is what this case is all about. Why, there wouldn't
16 be enough rooms in the courthouse. It is absurd.
17 There are literally thousands and thousands of audits
18 conducted. Everybody remembers, except maybe here, that
19 we are only human beings and our records are not immaculate
20 and we are imperfect.

21 But we are not crooks because of that but
22 pencils come with erasers. And there is nothing wrong
23 with that. Don't forget, you are not deciding whether or
24 not Harvey Meyers owes taxes. It is a simple matter.

25 The question is, is he a crook. I don't

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2 think they have shown that at all. And that he might
3 have done a better job. That he might have done it in a
4 better way? Well, let me tell you what might have been,
5 for exmaple.

6 There is an awful lot of might have beens
7 in this world. If we could only do what they know. We
8 are more than morning quarterbacks. We are dressed in
9 this case that way.

10 What you will have to do, folks, is you
11 will have to really -- before I say that, I must say one
12 other thing.

13 There has been some talk about the Forms 600.
14 Why didn't Mr. Meyers use them? He didn't get it -- if
15 you recall the witness from the Stock Exchange said that
16 they are not returned to him. That he could come and
17 look at them, but he did not have them.

18 But, I will submit to you again, that
19 there may have been other ways Mr. Meyers could have skinned
20 the cat, but you don't convict a man of a crime because
21 you could have decided among yourselves that he could
22 have been more efficient and more right.

23 I am sure if we all huddle all together
24 with most of our acts, we might find a better way to do
25 it. He has got to want to commit a criminal intent to

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2 commit a fraud against the government. Not be foolish,
3 not be prudent, as a matter of fact the difference makes
4 the difference.

5 I don't think there is enough evidence to
6 even begin considering that question.

7 You know, I use the analogy as a doctor.
8 Now, you have got to open Mr. Meyers mind. You have
9 got to perform surgery. Open it up, look inside it and
10 say, when those returns were filed and signed and turned
11 over to the government, what was he thinking? What was
12 he doing. You have got to believe with a certainty
13 beyond a reasonable doubt no hesitation that he was
14 trying to defraud the government from knowingly and
15 wilfully.

16 Now, what tools are you given by the govern-
17 ment to do that? Because that's their burden. To give
18 you the tools that enables you to make that operation a
19 success.

20 They gave you three scalpels. They gave
21 you Crumlish, they gave you Rubin and they gave you
22 Fernandez. I submit to you that they are rusty scalpels.
23 They are dirty and they are tarnished and they do not
24 rise to the level of proof that justifies a conviction
25 in the United States court.

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2 Now, you will soon deliberate in this case.
3 I am sure you will do your best to come to a just and
4 fair verdict. It is a difficult situation you have and
5 I do not envy a jury. I know you understand the respon-
6 sibility. I know you understand the grave consequences
7 that this can have to Mr. Meyers and his family. He is
8 a man with a reputation in the community and an important
9 position in the community and it is all threatened to
10 go down the drain. That certainly shows his self interest
11 in the case but it does not disqualify him from being
12 innocent.

13 You are not to judge him to say I love Mr.
14 Meyers. I like Mr. Meyers. You are only to say whether
15 or not you find him guilty or innocent.

16 I don't expect you to in any way jump across
17 this bar and throw bookcases at my feet and proclaim my
18 client's innocence. It is not your job.

19 It is your job to weigh the evidence and
20 make a determination whether or not the burden of proof
21 has been met by the prosecution, because we have no burden.

22 So, I know you are going to reflect upon
23 what you do for many months after this trial is over.
24 Because I know you understand the responsibility that
25 you have. I can only say to you that in the quiet of

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2 your own room, as you think about this in the months to
3 come, be sure, be certain that you have done the right
4 thing. I trust you will find my client not guilty.

5 THE COURT: Mr. Jossen, you may make your
6 brief rebuttal argument at this time.

7 MR. JOSSEN: Ladies and gentlemen, Mr.
8 Gallop would have you try Ernst & Ernst. But his whole
9 position, Mr. Gallop's entire argument as he casts it to
10 you proceeds on one assumption that the evidence shows is
11 not the case. He proceeds on the assumption that Harvey
12 Meyers in fact gave all of the information which he had
13 to Ernst & Ernst and the evidence shows you that he did
14 not.

15 Now, let's look at 1971 again and let's
16 look at this enormous argument that we have from Mr. Gallop
17 in which he compares Government's Exhibit 7 in evidence,
18 together with the tape, Government's Exhibit 4.

19 Mr. Gallop makes a big deal out of the
20 fact that there are checkmarks on Government Exhibit 7
21 and none on Government Exhibit 4.

22 Think back to Mr. Crumlish's testimony.
23 What did he have to do with Government's Exhibit 4. All
24 he had to do was sit down with the commission tapes and
25 turn them one by one right after the other and all he had

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2 to see if he got one figure that was correct. That's what
3 he did. That is not a complicated procedure. That takes
4 about a half an hour to do with all the commission advices
5 that were given to him.

6 But on Government Exhibit 7, here he was
7 analyzing information that had been given to him by Mr.
8 Meyers. Here he was taking numbers and computing them
9 and as you heard him testify, making sure that these
10 numbers had in fact been moved over to the various returns,
11 the preparation papers that were in the files. That's
12 why there were check marks here.

13 This argument that Mr. Gallop gives you
14 about why no check marks here is nonsense.

15 Ladies and gentlemen, Mr. Gallon would
16 suggest to you that Mr. Crumlish and Mr. Rubin, two
17 certified public accountants, came in here and for some
18 reason committed perjury. Mr. Gallon would suggest to
19 you that these two men, one of whom is a lawyer, both of
20 whom hold professional licenses would risk those licenses,
21 would risk prosecution for perjury and would come in here
22 and testify falsely.

23 But why? It just doesn't make sense. What
24 do they have at stake here? They don't have anything at
25 stake here. As far as they are concerned, as you heard

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2 from them, they took the information they got from Harvey
3 Meyers and that's what the evidence shows happened. They
4 took that information and they prepared the returns.
5 There is no buck-passing here.

6 The information came from Harvey Meyers and
7 he is the one who is responsible for that information.
8 If he deliberately withheld information from the
9 accountants and the evidence shows that he did, then
10 Harvey Meyers is the one who is responsible for those false
11 returns.

12 Let's look at another point. Mr. Gallop
13 kept talking about audit. You recall that. He said what
14 kind of an audit was this by Ernst & Ernst. Ernst & Ernst
15 was not preparing an audit for Harvey Meyers. You heard
16 that from Mr. Rubin. An audit would be talking about
17 financial statements and going back and verifying underlying
18 materials. That's not what is being done.

19 All that was being done was the preparation
20 of a tax return. And an accountant, as His Honor will
21 tell you is entitled to rely upon the information that
22 the taxpayer gives it if it is accurate.

23 It is a smokescreen, ladies and gentlemen.
24 Blame Ernst & Ernst because their name is on the tax
25 return. Blame Ernst & Ernst because they charged a high

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2 fee. Well, Harvey Meyers went to Ernst & Ernst and they
3 do charge a higher fee than you might pay elsewhere. But
4 they came with a certified public accountant who prepared
5 their returns, prepared the returns for each of those
6 years who did the necessary research and the information,
7 the information, and that is what is critical, came from
8 Harvey Meyers and he withheld it.

9 Now, Mr. Gallop says to you there is a
10 miraculous recollection on the part of Mr. Crumlish and
11 Mr. Rubin. Let's be very clear about what they were
12 testifying to on direct examination.

13 They had and they told you the benefit of
14 the files of Ernst & Ernst and their own work papers in
15 those files. That's what they had examined, as you heard,
16 prior to their testimony and that's what they testified to
17 using.

18 Now, Mr. Gallop shows to both Mr. Crumlish
19 and to Mr. Rubin a whole bunch of documents that have
20 been in the defendant's possession since November, 1973.
21 Documents like checks and what not, assuming that they
22 have been with the defendant that long and assuming that
23 they were ever there to start with.

24 It is not surprising that those witnesses
25 wouldn't remember those specific documents. But what they

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2 would remember is when they took the total gross
3 commissions, the figure that appears on line 1, Schedule
4 C, for each of those two tax returns for 1971 and 1972,
5 they would remember where that information came from.

6 And it is not unusual or not unlikely that
7 James Crumlish can recall and tell you clearly that he
8 checked that tape which has the notation on the bottom
9 which says, total dollar income in 1972 for 1971. That
10 he compared each one of those invoices or a check of
11 commission advices and he found that they were complete
12 and accurate. That shows you that Harvey Meyers held
13 back a number of commission advices. He held back money
14 from the accountant.

15 Now, Mr. Gallop misstated an argument that
16 I made to you earlier and let me restate it for you and
17 it has to do with the parking of the \$25,000 with
18 Marcelino Fernandez.

19 I did not say to you and I did not argue
20 to you that Harvey Meyers was trying to get a double
21 deduction. What I said is that the \$25,000 which was
22 paid in 1971, you can find clearly came from the \$29,000
23 that Harvey Meyers was not reporting for that year.

24 He wanted to get it away from him. He
25 wanted to get it off of his own books. He wanted it in

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2 somebody else's possession in order to get it back
3 later on coming back in what appears to be an innocent
4 situation through a loan. That's the reason that he
5 parked that money with Marcelino Fernandez.

6 And afterwards, he decided and that's
7 what the evidence shows, afterwards he decided as long as
8 Marcelino has the money, now here is an opportunity for
9 me to take a deduction in 1971. That's when the check
10 gets altered, Government Exhibit 9 and that's when a
11 personal loan becomes a personal investment in a loan
12 in Puerto Rico for investment purposes.

13 More attempts to try and confuse the
14 issue. Let's take a look at Government Exhibit 7.

15 Now, first of all, bear in mind that Maria
16 Meyers told you that she prepared this form as it was
17 dictated to her by Harvey Meyers. And look at Item No. 28.
18 Bad business debt, Re: Fernandez, see cancelled check.
19 There is no question as to what that \$25,000 deduction is
20 on the Schedule C of the 1971 return. That's this \$25,000
21 loan.

22 The comment here that appears in Mr. Crumlish's
23 handwriting, "Trading in Beef Futures, Importation from
24 D.R. to P.R." first of all that information came from
25 Harvey Meyers when he spoke to Mr. Crumlish about this loan.

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2 Also, if you look at Government Exhibits
3 28, 29 and 30, the phony documents that Marcelino
4 Fernandez told you he prepared at the instruction of Harvey
5 Meyers, you will see references to meet investments.
6 You will see references to Santo Domingo, the Dominican
7 Republic. In fact, the letterhead on Exhibit 29 in
8 evidence is from Santo Domingo, Dominican Republic.

9 Let's talk about Marcelino Fernandez for
10 a moment. Mr. Gallop suggests to you that Marcelino
11 Fernandez came in here and lied. I submit to you, ladies
12 and gentlemen, that you can find that Marcelino Fernandez
13 had no motive to lie. He was testifying here under a
14 grant of immunity. His Honor will explain what that means
15 to you.

16 Essentially, Mr. Fernandez cannot be
17 prosecuted on the basis of things that he said in court
18 under oath with one important exception. If he lied.
19 If he testified falsely, then he can be prosecuted with
20 his own words here in a prosecution for perjury.

21 Now, just think about it, ladies and
22 gentlemen. Again, apply your common sense. Would a man
23 like Marcelino Fernandez come in here and with a grant of
24 immunity knowing that he can be prosecuted if he testifies
25 falsely and comes in here and lie and particularly lie about

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2 his brother-in-law. It just doesn't make sense.

3 Ladies and gentlemen, what Marcelino
4 Fernandez told you, I submit to you, you can find is
5 exactly what happened. That he got the \$25,000 from his
6 brother-in-law Harvey Meyers and that the money was
7 repaid to Harvey Meyers in 1972. Indeed, Mr. Gallop
8 didn't even comment about that. He did not even comment
9 about the fact that the receipts, Government's Exhibits
10 16 and 17, signed by Harvey Meyers specifically acknowledg-
11 ing repayment of the \$25,000 loan. They make reference
12 right on those receipts to the very checks that accompanied
13 those receipts.

14 The \$25,000 loan, the one and only \$25,000
15 loan which the evidence shows took place here between
16 Harvey Meyers to Marcelino Fernandez.

17 Mr. Gallop says we are picking at small
18 things. Ladies and gentlemen, it is the overall
19 conduct that you must look at which puts everything
20 together. It is the overall conduct which shows you that
21 when Harvey Meyers filed these two tax returns in which
22 more than -- in 1971 more than one-third of the total
23 gross receipts which he had reported were not reported
24 and in 1972 when more than one-half of the total gross
25 receipts which he had reported were not reported, that

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2 when those returns were filed, they were done by Harvey
3 Meyers knowing that they were false and fraudulent and
4 done for the purpose of attempting to evade his income
5 taxes.

6 You know, ladies and gentlemen, we are
7 not dealing here with somebody who is in a cash business.
8 We are not dealing here with somebody who has no business
9 sense, no background at all. We are dealing with a stock
10 broker. Harvey Meyers had business experience on the
11 Stock Exchange. It is simply inconceivable and the
12 evidence shows you can draw that right from your common
13 sense that a person who kept as careful records as Harvey
14 Meyers did could possibly sign those two tax returns with
15 those two enormous discrepancies in 1971 and 1972 and not
16 know about it. It simply defies belief.

17 I said it before and I say it again.

18 Now, Mr. Gallop said a lot of things to
19 you about why would Harvey Meyers do this, why would
20 Harvey Meyers do that?

21 For example, why did Harvey Meyers send
22 that handwritten note to Marcelino Fernandez, Government
23 Exhibit 14. It is simple, it is going to Marcelino
24 Fernandez. It is going to his brother-in-law and not
25 the Internal Revenue Service or any governmental agency.

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2 All it shows you is that when Harvey Meyers
3 was doing this in 1971 and 1972, he just didn't plan on
4 getting caught. That's what happened.

5 When Mr. Gallop talks about the fact why
6 did Harvey Meyers move the audit up, well, ladies and
7 gentlemen, he had already received a notice that he was
8 going to be audited. There was nothing he could do about
9 it. It was going to go through an audit for 1972. What
10 does he do? He decides to try and show the Internal
11 Revenue Service that he is cooperating and that's his whole
12 approach.

13 Your recollection, of course, will control.
14 But you will remember that when Mr. Rubin testified, he
15 told you what happened on the day of the audit. He
16 said after the discrepancies took place or appeared, he
17 telephoned Harvey Meyers on the floor of the Stock
18 Exchange. And at that time in the phone call Harvey
19 Meyers gave him the two explanations on the phone. And
20 then all of a sudden, Harvey Meyers come up on his own to
21 the Ernst & Ernst offices and again gives the same
22 explanation.

23 Your recollection will control and if you
24 are not sure, you ask to have Mr. Rubin's testimony
25 reread on the point. But that shows you that Harvey

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2 Meyers didn't hesitate. He didn't say, well, let me see,
3 I will have to think about it for a while. He came up
4 and twice on the same day gave the same explanation as to
5 the source of that money.

6 Now, one final point I will make just
7 before I close very briefly. Mr. Gallop suggested to
8 you why did Marcelino Fernandez put this money into his
9 business? And when he put the money into his business,
10 didn't that make it a business transaction, a business
11 debt?

12 Well, the first answer is, you heard from
13 Marcelino Fernandez that he was concerned, he wanted to
14 make sure that this loan was absolutely and properly
15 treated. That it was recorded someplace and that's why
16 he put it through the Frozens account and that is why he
17 issued all of the documentation.

18 You will recall, of course, that he based
19 that and you can find that, that he based that and you
20 can find that he based that action on his conversations
21 with Harvey Meyers in which Harvey Meyers showed a pre-
22 occupation for taxes and money. And when it comes down
23 to the treatment of that as a business bad debt, Marcelino
24 Fernandez told you there was no understanding with Harvey
25 Meyers as to what was to be done with that \$25,000. He

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2 was told he could do with it as he believed.

3 The fact that that loan is made as a
4 personal loan after Harvey Meyers made it and then Mr.
5 Fernandez put it into Frozens, does not controversy that
6 loan into a business bad debt.

7 Now, ladies and gentlemen, in just a little
8 while his Honor will instruct you on the law which
9 must govern your deliberations and you will retire to
10 deliberate and obtain a verdict in this case.

11 I submit to you, again, that when you
12 deliberate, if you focus on the amounts of money that are
13 involved here, the fact that this did take place in two
14 consecutive years, if you focus on the lack of
15 interest of the testimony of the witnesses from Ernst &
16 Ernst, Michael Rubin, James Crumlish, if you focus on the
17 handwriting of the \$25,000 Fernandez loan and the fact
18 that documents were altered, all of the other badges of
19 fraud that I have discussed with you previously, you will
20 see beyond any doubt at all that the evidence shows that
21 Harvey Meyers is guilty as charged in the two counts of
22 the indictment.

23 Thank you.

24 THE COURT: Members of the jury, before you
25 hear me, we will have a very brief recess.

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2 Now, during that recess, don't discuss the
3 case and keep an open mind. I will give you my
4 instructions very shortly. Please withdraw to the
5 jury room.

6 (Jury excused from the courtroom)

7 THE COURT: I will be in recess for about
8 five minutes.

9 (Recess)

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
UNITED STATES OF AMERICA :

-against- :

77 Cr. 227 CLB

HARVEY S. MEYERS, :

Defendant. :

-----X

New York, New York
May 4, 1977 -

B E F O R E:

HON. CHARLES L. BRIEANT, JR.,

District Judge

APPEARANCES:

ROBERT B. FISKE, JR., ESQ.

United States Attorney for the
Southern District of New York

BY: ROBERT J. JOSSEN, ESQ.,
Assistant United States Attorney

KALMAN V. GALLOP, ESQ.
Attorney for Defendant

ALSO PRESENT:

TIMOTHY HARTNETT,
IRS Investigator

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2 (Jury present.)

3 CHARGE OF THE COURT"

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5 THE CLERK: The Court is about to charge the
6 jury. Any spectator wishing to leave will do so now or wait
7 until the completion of the Judge's charge.

8 THE COURT: Mr. DiPressi and members of the jury.
9 We are now at that stage in the trial where you will soon
10 undertake your final function as jurors. Here you will per-
11 form one of the most sacred obligations of citizenship, and
12 that is acting as ministers of justice.

13 You are to discharge this final duty in an
14 attitude of complete impartiality and fairness, as indicated
15 in the beginning of the trial when you were first selected,
16 and you will act without bias or prejudice for or against the
17 government or the defendant or parties to this controversy.

18 Let me state that the fact that the government
19 is a party here entitles it to no greater consideration than
20 that accorded to any other party in court. By the same
21 token, it is entitled to no less consideration. All parties,
22 individuals and the government alike, are equals before the
23 bar of justice in this court and your final role here is
24 to decide and pass upon the fact issues in this case.

25 You are the sole and exclusive judges of the

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2 facts. You determine the weight of the evidence, you
3 appraise the credibility or truthfulness of the witnesses
4 and you draw the reasonable inferences or conclusions from
5 the evidence, and you resolve such conflicts as there may
6 be in the evidence. I will discuss with you later how you
7 determine the credibility of witnesses.

8 My final function here is to instruct you as to
9 the law applicable to this case and it is your duty to ac-
10 cept these instructions as to the law and then apply them to
11 the facts as you may find them to be and thereby reach your
12 verdict.

13 You are not to consider any one instruction
14 which I give you as alone stating the law, but you must
15 consider all of my instructions taken together as a whole.

16 With respect to any fact or any matter in evi-
17 dence, it is your recollection and yours alone that governs.
18 Anything that the lawyers may have said with respect to
19 testimony or matters in evidence during the trial or in a
20 question or in an argument or in summations is not to be
21 substituted for your own recollection of what the evidence
22 is, and anything I might say during the trial or anything
23 that I might refer to during the course of these instruc-
24 tions as to any matter in evidence is not to be taken in
25 place of your own recollection as to what the testimony was.

The attorneys here not only have their right

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but their duty to make objections and to present whatever legal theories they may have. Each of them are simply performing their duty and any evidence as to which an objection was sustained by the Court and any evidence or any comment, for that matter, which I ordered to be stricken out must be disregarded by you in its entirety.

It is not my function to favor one side or the other or to criticize anybody in any way whatsoever, or to indicate to you, the jury, in any way that I have any opinion as to the truthfulness of any witness or as to the guilt or innocence of the defendant. Factual decisions are your function and they are yours alone and I leave them entirely to you, so please don't assume that I hold any opinion in any matters concerning this case and please don't think that I have any idea as to how it should be decided or that I have some attitude or that I may tend to favor one side or the other in the case, because I do not.

I told you earlier the indictment here itself is no evidence of the crime charged. Instead, an indictment is merely the method or procedure in law whereby persons accused of a crime by a grand jury are brought into court to have their case decided by trial juries such as yourselves.

Therefore, the indictment must be given no evidenciary value but it should be treated by you only as an

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2 accusation. It is not evidence or proof of anybody's guilt,
3 and no weight or significance whatsoever is to be given to
4 the fact that an indictment has been returned as against the
5 defendant. He has pleaded not guilty, and thus the govern-
6 ment has the burden of proving the charges beyond a reason-
7 able doubt.

8 The defendant does not have to prove his inno-
9 cence. I have told you that a couple of times, and I empha-
10 size it again. He is presumed to be innocent of the accusa-
11 tions contained in the indictment and this presumption of
12 innocence is in his favor at the start of the trial, as I
13 believe I told you, it continued in his favor throughout the
14 entire trial, and it is in his favor now and it remains in
15 his favor during the course of your deliberations in the
16 jury room. The presumption of innocence is removed as to a
17 particular count only if and when you, the jury, are
18 satisfied that the government has sustained its burden of
19 proving the guilt of the defendant as to that count beyond
20 a reasonable doubt.

21 Of course, unless you are so convinced as to
22 any particular count you must find him not guilty of that
23 count. Now, the question naturally comes up: what is
24 a reasonable doubt? Well, members of the jury, those words
25 almost define themselves, and that is a doubt founded on

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2 reason and arising out of the evidence in the case or the lack
3 of evidence. It is a doubt which a reasonable person has
4 after weighing all the evidence carefully. Reasonable doubt
5 is a doubt which appeals to your reason, to your judgment,
6 to your common sense and your experience. It is not a
7 caprice or whim or speculation or conjecture or suspicion.
8 It is not an excuse to avoid the performance of an unpleasant
9 duty. It is not sympathy for a defendant.

10 If, after a fair and impartial consideration of
11 all the evidence, you can candidly and honestly say you
12 are not satisfied of the guilt of the defendant as to a
13 particular count that you are then considering, that you do
14 not have an abiding conviction of the defendant's guilt on
15 that particular count or charge, that is to say, if you have
16 such a doubt as would cause you as prudent persons to
17 hesitate before acting in matters of importance to yourself,
18 then you have a reasonable doubt, and in that circumstance,
19 it is your duty to acquit the defendant as to the count you
20 are then considering.

21 On the other hand, if after such a fair and im-
22 partial consideration of all the evidence you can candidly
23 and honestly say you do have an abiding conviction of the
24 defendant's guilt, such a conviction as you would be
25 willing to act upon in important and weighty matters in the

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2 personal affairs of your own life, then you have no reason-
3 able doubt and under those circumstances it is your duty to
4 convict.

5 Reasonable doubt does not mean a positive cer-
6 tainty or beyond all possible doubt. If that were the rule
7 few people, however guilty they might be, would ever be
8 convicted because it is practically impossible for a person
9 to be absolutely convinced of any disputed fact which by its
10 nature is not susceptible to mathematical certainty.

11 For that reason, the law in a criminal case is
12 that it is sufficient if the guilt of the defendant is
13 established beyond a reasonable doubt, not beyond all possible
14 doubt.

15 Now, as you know, the indictment contains two
16 counts. Each count charges a separate crime on a separate
17 occasion. Each count must be considered separately by you in
18 deliberating and you will be asked to give a separate verdict
19 on each count based upon the evidence pertaining to that
20 count.

21 There are two classes of evidence recognized and
22 admitted in courts of justice, upon either of which the jurors
23 may find an accused person guilty of a crime. One is called
24 direct evidence and the other is called circumstantial
25 evidence. Direct evidence tends to show the fact in issue

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2 without any need for clarification, although of course there
3 is always the question as to whether it is to be believed.

4 Circumstantial evidence is evidence which tends
5 to show facts from which the fact in issue may be reasonably
6 inferred. It is evidence which tends to prove the fact in
7 issue by proving other facts which have a legitimate tendency
8 to lead the mind to infer or conclude that the facts sought
9 to be established are true.

10 Now, there is a traditional example. Let's
11 assume that we are in one of the courtrooms in this beautiful
12 old fashioned building on the upper floor where the windows
13 look out on the street below and sometimes you know from that
14 kind of a place if you look out, you can't always tell if it
15 is raining outside. But if you look out of the window onto
16 the street from a height and it is a cloudy day and you see
17 people passing by in the streets with their umbrellas up,
18 you usually would come to the conclusion that it must be
19 raining out. You have direct evidence, the evidence of your
20 own eyes, your senses, which tell you that the umbrellas are
21 up, and that constitutes circumstantial evidence from which
22 you are entitled to conclude that it must be raining.

23 In other words, circumstantial evidence consists
24 of facts proved from which the jury may infer or conclude by
25 a process of reasoning the existence of other facts which

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2 are in issue.

3 Circumstantial evidence, if believed, is of no
4 less value than direct evidence because in any case you must
5 be convinced beyond a reasonable doubt of the guilt of a
6 defendant before he may be convicted.

7 Now, in determining what evidence you'll accept
8 you must make your own evaluation of the testimony given to
9 you by each of the witnesses. You must determine what you
10 believe to be the truth. You must decide the degree of
11 weight or significance you choose to give to that testimony.
12 The testimony of a witness may fail to conform to the facts
13 as they occurred because the witness is intentionally telling
14 a falsehood or because the witness did not accurately see or
15 hear what he testified about or because his recollection of
16 an event is faulty or because he didn't express himself
17 clearly in giving testimony, or for any number of reasons.

18 Now, there is no magic formula by which the jurors
19 can evaluate testimony.

20 You bring to your service as jurors all the
21 experiences in the background of your everyday lives and
22 every one of you in your everyday affairs determines for
23 yourselves the reliability of statements made to you by
24 others. The same tests you use in your everyday dealings
25 you use in your deliberations. You use your common sense.

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2 You may consider the interest or lack of inter-
3 est of any witness in the outcome of the case. A witness who
4 is interested in the outcome of a case is not necessarily
5 unworthy of belief. But the interest of a witness is a
6 factor or a possible motive that you may consider in determin-
7 ing the weight and credibility of his or her testimony.

8 You may also consider whether the testimony of
9 a witness is corroborated--that is to say, borne out, sub-
10 stantiated by the testimony of others or by documentary
11 evidence or by exhibits. You may consider the bias or
12 prejudice of a witness, if there be any, the manner in which
13 the witness gives his or her testimony on the stand, the
14 appearance and conduct of the witness in answering the
15 questions, the opportunity the witness had to observe the
16 facts being testified about and the probability or the
17 improbability of the testimony in the light of all the other
18 events in the trial.

19 You can also consider whether any witness had a
20 motive to lie. Those are all items to be taken into your
21 consideration in determining the truthfulness and the weight
22 or significance, if any, which you will assign to the testi-
23 mony of any witness.

24 You, as sole judges of the facts, determine which
25 of the witnesses you believe, what portion of their testimony

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2 you will accept as true and what weight or significance you
3 will give to it.

4 As to Mr. Rubin's testimony, I instruct you that
5 the mere fact that somebody has consulted a psychiatrist or
6 received out patient care for his mental health does not
7 mean that he is incapable of telling the truth. A witness's
8 mental health, however, is a fact which you can consider in
9 determining the weight and credibility to be attributed to
10 his testimony. In this regard you may consider all factors
11 bearing upon his mental ability, including not only the fact
12 that he went to the doctor, but his employment history,
13 prior to the time that he made out the tax return, and since
14 that time, including the fact that he passed the CPA examina-
15 tion, if you believe his testimony that he did, and that he
16 has been with a New York city law firm since leaving the
17 tax accounting firm where he worked.

18 Your conclusion as to his mental state and whether
19 or not he was a, I think the words used, "sick boy" affect
20 his credibility are fact issues. They are issues which are
21 solely for your determination. You will determine the
22 significance and weight of his testimony based on everything
23 that you have seen and heard in connection with the trial.

24 Now, the chart or summary of the evidence that's
25 before you, I think it is Exhibit 26, the big chart, is not

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evidence by itself. It is a mere resume or visual presentation of information or data that is set forth in the testimony of the witnesses or in documents received in evidence. Such items like that, charts and summaries, are no better than the testimony or the documents upon which they are based.

So, it is for you to decide whether the chart correctly presents that data set forth in the testimony and the exhibits on which it is said to have been prepared. If it does not, the mere fact that there is a chart is of no significance.

Now, Marcelino Fernandez has testified as a government witness. If his testimony is to be believed, he is an accomplice.

Now, you must realize, I'm sure, in the prosecution of crimes, the government is frequently called upon to use witnesses who are accomplices. Often it has no choice. Now, there is no requirement in the federal court that the testimony of an accomplice be corroborated. A conviction may rest on the uncorroborated testimony of an accomplice, if you believe it and find it credible and if you are satisfied of guilt beyond a reasonable doubt.

But the testimony of an accomplice must be weighed with caution and scrutinized carefully and you will apply

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2 these considerations in your deliberations if you find Mr.
3 Fernandez to have been a knowing and willful participant in
4 any wrongdoing, that is to say, an accomplice.

5 Now, I also want to instruct you about Marcelino
6 Fernandez, that his testimony was given under a grant of
7 immunity. Immunity means that nothing testified by the
8 witness, Mr. Fernandez, can be used directly or indirectly
9 against him in any future prosecution of himself with re-
10 spect to matters about which he gave testimony. Once immuni-
11 ty has been given to somebody, it cannot be taken away.

12 However, immunity does not protect a witness
13 such as Mr. Fernandez from use of his testimony or informa-
14 tion supplied by him in a subsequent prosecution of himself
15 for perjury or for making false declarations. In other
16 words, if he lied, he could be prosecuted for perjury or
17 false declarations if the government wanted to do so not-
18 withstanding any immunity order previously granted to him
19 under which he testified.

20 Now, the decision as to which persons the
21 government decides to grant immunity to in order to obtain
22 their testimony against others is not a matter for your con-
23 sideration. That's for the U.S. Attorney to decide and it
24 should not enter into your deliberations at all. The
25 testimony obtained under a grant of immunity, however,

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2 should be examined by you with greater care than the testi-
3 mony of an ordinary witness. You should consider whether
4 the testimony may be affected in such a way as to further
5 the witness' own interest because a witness who realizes that
6 he may procure his own immunity by incriminating somebody
7 else may have a motive to falsify.

8 That is a matter for your sole consideration.
9 After you have considered it, you may give the testimony
10 of Fernandez such weight and significance as you feel
11 it deserves under the circumstances.

12 I instruct you that the defendant's wife, Mrs.
13 Maria Meyers, has an interest in the outcome of the case.

14 I told you earlier that simply because a witness
15 has an interest in the outcome of the case does not mean that
16 he or she is not capable of giving truthful testimony.
17 Interest, however, may create a motive to falsify, and it is
18 appropriate for jurors in appraising the credibility of an
19 interested witness to consider the effect, if any, of his
20 or her interest in the outcome of the trial.

21 Here again, this involves a factual determination,
22 which, like all factual matters in the case, is one entirely
23 for the jury's sole determination.

24 Now, statements and arguments of counsel are not
25 evidence in the case. An opinion of counsel as to guilt

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2 or innocence is not a matter with which you are to be con-
3 cerned. You decide the case on the evidence presented to you
4 or the lack of evidence as you find the facts to be.

5 However, when the attorneys for both sides stipulate or agree
6 to the existence of a fact, then you may, as I said earlier
7 when I was accepting certain stipulations, that you regard
8 that stipulation with the same force and effect as if the
9 witness had testified to the fact which is being stipulated.
10 That is a perfectly proper procedure to save the necessity
11 of witnesses coming in for matters which are not seriously
12 disputed and you may accept stipulations as evidence.

13 Now, the defendant in any criminal case never has
14 the burden or duty of calling any witnesses or producing any
15 evidence in his own behalf. As I stated to you before, the
16 burden of proof remains at all times on the government.

17 And in every criminal case there is a rule which
18 every defendant has the privilege and the right to rely on.
19 That's the rule that no defendant is compelled to take the
20 witness stand or to offer any testimony. By pleading not
21 guilty, the defendant has, in effect, denied the charges for
22 which he is being put on trial. He puts in issue every mater-
23 ial fact of the accusations against him as they are stated
24 in the indictment. It is the government who must prove him
25 guilty beyond a reasonable doubt and he can't be required

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2 to testify or disprove anything.

3 An accused person has the right not to take the
4 stand and the fact that he does not do so may not be con-
5 sidered by you as any indication of guilt or as an admission
6 of guilt or as any evidence of guilt or as the basis for any
7 inference adverse to a defendant.

8 The presumption of innocence and the government's
9 burden of proving guilt beyond a reasonable doubt has already
10 been explained to you by me. Here, Mr. Meyers did not take
11 the witness stand and that was his right and I charge you
12 that you must not allow this fact in any way to prejudice him
13 and you must not consider it as any indication or the basis
14 for any adverse inference as to him of any kind. Indeed,
15 you may not even discuss it in your deliberations.

16 Leaving these general matters, I will now describe
17 for you the specific nature of the crime charged in each
18 count of this indictment.

19 Now, we all know that our tax laws, income tax
20 laws, contemplate self-assessment and collection of taxes.
21 Each one is required to disclose annually to the Internal
22 Revenue Service our taxable income and based thereon to com-
23 pute and report and pay the tax that's due the government.

24 In other words, under our system, each taxpayer
25 is his own tax assessor for purposes of income tax.

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2 It is proper for Congress to permit certain
3 types of work to be administered without the necessity of any
4 withholding of income tax and without the necessity of filing
5 any information or returns or form 1099's, which advise the
6 government of what the taxpayer received or withholds the
7 taxes out of his pay or both; and, the testimony shows that
8 that's what happened here with respect to members of the
9 stock exchange.

10 Now, the fact that there was no withholding or
11 no form 1099 does not in any way affect the issues before
12 you in this case.

13 Now, the self-administered system of collecting
14 income taxes can function adequately only if each taxpayer
15 files an accurate and honest return reflecting his income
16 on which taxes are due.

17 Now, let me emphasize that while this case is
18 generally concerned with income taxes, it has nothing to do
19 with the collection of any taxes that may be due the
20 government.

21 This is a criminal case and its object is to
22 secure the enforcement of criminal sanctions provided by
23 Congress. Here it is charged, and denied by the defendant,
24 that he has knowingly and willfully attempted to defeat or
25 evade the payment of taxes due.

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2 There is a distinction between civil liability
3 imposed upon a defendant for taxes which weren't paid
4 and criminal responsibility for his acts and conduct in
5 connection with his tax returns.

6 In this present case, we are not concerned with
7 civil liability and you are not concerned with whether or
8 not the taxes claimed to be due have been paid by the
9 defendant.

10 This will not be determined by you in deciding the
11 fact issues in the case. Rather, the issue here is whether
12 the government has proven beyond a reasonable doubt that the
13 defendant knowingly and willfully attempted to defeat or
14 evade the payment of income taxes due the government in the
15 two different years referred to in the separate counts.

16 Count 1 here charges the crime of attempting to
17 evade income taxes for the calendar year 1971 and Count 2
18 charges the crime of attempting to evade income taxes for the
19 calendar year 1972. These counts must be considered
20 separately by you since you will be asked to announce a
21 separate verdict as to each.

22 I remind you that each count charges a separate
23 crime. As we all know, our tax system is based on an annual
24 accounting system and each calendar year is treated as a
25 separate unit, requiring a separate tax return for that year.

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Now, at this point I am going to read to you the indictment.

"The grand jury charges on or about April 15, 1972, Harvey S. Meyers, the defendant, then a resident of New York, New York, in the Southern District of New York, did unlawfully, willfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of America for the calendar year 1971 by filing and causing to be filed with the United States Internal Revenue Service a false and fraudulent joint income tax return on behalf of himself and his wife, wherein it was stated that their taxable income for the said year was \$21,587 and that the amount of tax due and owing thereon was \$4,888, whereas, as he then and there well knew, their taxable income for the said calendar year was approximately \$51,437 upon which taxable income there was owing to the United States of America an income tax of approximately \$17,778.50.

"Count 2. The grand jury further charges on or about April 15, 1973, Harvey S. Meyers, the defendant, then a resident of New York, New York, in the Southern district of New York, did unlawfully, willfully and knowingly attempt to evade and defeat a large part of the income tax due and owing by him and his wife to the United States of

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2 America for the calendar year 1972 by filing and causing to
3 be filed with the United States Internal Revenue Service a
4 false and fraudulent joint income tax return on behalf of
5 himself and his wife, wherein it was stated that their
6 taxable income for the said year was \$52,366 and that the amount
7 of tax due and owing thereon was \$18,254, whereas, as he
8 then and there well knew their taxable income for the said
9 calendar year was approximately \$134,286, upon which taxable
10 income there was owing to the United States of America an
11 income tax of approximately \$59,679."

12 That concludes the reading of the indictment.

13 Now, Counts 1 and 2 of the indictment each
14 charge violations of Section 7201 of Title 26 of the United
15 States Code. You don't have to remember the section number,
16 but it is important to remember what the statute provides.
17 The statute provides in pertinent part "any person who will-
18 fully attempts in any manner to evade or defeat any tax imposed
19 by this title or the payment thereof," is guilty of a crime.

20 Now, the statute refers to Title 26, which is
21 that part of the United States Code which contains, among
22 other things, the elements of the offense of income tax
23 evasion.

24 In order to convict the defendant Harvey S.
25 Meyers on either Count 1 or Count 2 of the indictment, the
government must establish to your satisfaction beyond a

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reasonable doubt as to the count which you are then considering each of the following three elements, and these are the three elements of the crime charged, members of the jury. It is very important.

One, that a substantial additional amount of federal income tax was due and owing from the defendant for the calendar year referred to in the count of the indictment you are considering beyond that amount of tax as shown as due on the return.

The second element. That the defendant made an intentional attempt to evade or defeat that tax.

And third, that the defendant did so willfully and knowingly.

If the government fails to prove any one of these elements beyond a reasonable doubt on the particular count you are then considering, you must find the defendant not guilty on that count. Then you go on and consider the next count.

With respect to the first element that there be a tax due and owing, the government must prove that the defendant understated his taxable income by failing to report all of his gross commissions on Schedule C of his individual tax return and as to 1972, by failing to report a bad debt recovery which he had deducted in the prior year

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2 and that, had he not understated such income, there would
3 have been a substantial additional tax due and owing to the
4 United States of America.

5 Now, the government's contention as to the amount
6 of taxable income reported, as to the actual taxable income
7 which should have been reported, as to the taxes which were
8 in fact paid and as to the taxes which would have been due,
9 is all set forth in the chart which has been marked, I be-
10 lieve, as Exhibit 26. But you all remember the chart.

11 In brief, the government contends that Mr. Meyers
12 deliberately failed to report \$29,850 in commissions for the
13 tax year 1971 and \$56,920 in commissions for 1972. The
14 government also contends that Mr. Meyers failed to report
15 as income the repayment of a \$25,000 loan received by him
16 during the 1972 tax year. And that by these omissions he
17 reduced the income on which he was required to pay income
18 tax for these years.

19 Th government is not required to prove the un-
20 paid tax due and owing to a mathematical certainty nor need
21 it prove the precise amount alleged in the indictment. It
22 is sufficient if the proof establishes that a substantial
23 part of a tax liability was evaded for the tax year you are
24 then considering.

25 What is a substantial part varies from case to

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case and depends on how the unreported income compares in magnitude to the reported income and how large the tax would be on the additional income if it were reported.

Putting it another way, there can be no exact guideline as to how much is a substantial amount of tax owing, and if you are convinced beyond a reasonable doubt that there was a deficiency in tax, you must decide whether the amount is, in your judgment, substantial.

Here, of course, the government claims that the tax due for the year 1972 is \$12,891.05 additional and for the year 1972 is \$41,434.93 and that you may find these amounts to be substantial. But that is a matter which is addressed to your judgment and your common sense. But an insubstantial or trivial amount would not constitute a crime.

The second element is that there must be an intentional attempt to evade or defeat the tax.

The attempt alleged in the indictment is the filing of a false federal income tax return. An attempt is made when a false return is knowingly filed.

To sustain a charge that the defendant caused to be filed a false and fraudulent tax return, it must be shown that the defendant knew he omitted gross commission receipts or income, and thereby intentionally attempted to evade or defeat the tax on his income, or a substantial part of it, by knowingly and purposely understating his taxable

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2 income for the year referred to in the count you are con-
3 sidering.

4 If the government proves an intentional attempt
5 to evade or defeat the tax as to the particular count
6 which you are then considering, then it will have satisfied
7 the second element. If not, however, you must return a ver-
8 dict of not guilty on that particular count.

9 With respect to the third element, it is neces-
10 sary that the government prove beyond a reasonable doubt
11 as to the particular count of the indictment that you are
12 then considering that the defendant acted knowingly and will-
13 fully in attempting to evade taxes due. To do an act knowingly
14 and willfully, it must be proven beyond a reasonable doubt that
15 the defendant acted voluntarily and intentionally with a
16 specific intent to do something which the law forbids. Thus,
17 even if you should find the defendant's income was understated
18 in a return, if he didn't do so knowingly and willfully, and
19 with an intent to evade taxes, you must return a verdict of
20 not guilty on the particular count you are then considering.

21 What do these words "knowingly" and "willfully"
22 mean? Well, first, let me tell you what they don't mean.
23 They don't mean that the government must show that the
24 defendant knew he was breaking a particular law before he
25 can be convicted of a crime. Nor do these words have anything

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2 to do with his personal or private reasons for violating
3 a statute. If, after considering all the evidence in ac-
4 cordance with my instructions to you, you come to the con-
5 clusion that the defendant intentionally violated the statute,
6 then in that event his personal or private reasons for violat-
7 ing the statute are of no consequence as far as guilt is con-
8 cerned.

9 I instruct you that these words "knowingly and
10 willfully" mean deliberately and intentionally. In other
11 words, you must be satisfied beyond a reasonable doubt that
12 Harvey S. Meyers acted with knowledge, conscientiously and in
13 the free exercise of his will. The words "knowingly and
14 willfully" are opposed to the idea of an inadvertant or
15 accidental occurrence.

16 To act willfully, means that one does an act
17 purposely and with the specific intent to disregard the law,
18 or to do that which the law forbids. Willfulness involves
19 conscious wrongdoing, or, as it has sometimes been stated,
20 an evil state of mind, a specific criminal intent and purpose
21 to violate the law. In this case, to cheat the government out
22 of a substantial part of the taxes known by the defendant to
23 be due.

24 Thus, actual knowledge that returns filed are
25 false would show one is acting willfully. On the other

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2 hand, willful does not mean inadvertance, mistake, careless-
3 ness or an honest misunderstanding.

4 Knowledge and intent exists in the mind, members
5 of the jury. It is not possible to look into a man's mind and
6 see what was going on in 1972 and 1973. The only way you
7 have for arriving at a decision on this matter of intent is
8 to take into consideration all of the facts and circumstances
9 shown by the evidence, including the exhibits and to determine
10 from all such facts and circumstances whether the requisite
11 knowledge and intent were present at the time in question.
12 Direct proof is unnecessary. Knowledge and intent may be
13 inferred from all of the surrounding circumstances.

14 The defendant does not have to prove to you that
15 his actions were not done knowingly and willfully. It is
16 the government's burden to satisfy you beyond a reasonable
17 doubt that he did in fact act knowingly and willfully at the
18 time he signed and filed his return.

19 Now, a few words about Ernst & Ernst. A taxpayer
20 may delegate the responsibility for the preparation of his
21 returns to a person, such as an accountant or a firm of
22 accountants. The mistakes of such a person, of course, are
23 not attributable to the taxpayer.

24 Insofar as the activities of Ernst & Ernst are
25 concerned, if you find that this defendant knowingly and

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2 willfully and intentionally gave false financial information
3 to Ernst & Ernst, intending thereby to evade his income
4 taxes and expecting that Ernst & Ernst's man would use those
5 false figures in preparing the returns, and he in fact did
6 use them, and the defendant thereafter knowingly and inten-
7 tionally signed false returns and filed them with the govern-
8 ment, then that is sufficient to satisfy the government's
9 burden as to that element of the crime. It makes no differ-
10 ence if the people employed by Ernst & Ernst were foolish or
11 stupid or negligent or careless.

12 The function of a tax preparer is to use his best
13 efforts to assemble the data given to him by his client and
14 make a proper tax return and a tax preparing service or
15 an accounting firm acting as a tax preparer is not involved
16 in making an audit.

17 The jury will understand that in the auditing
18 branch of an accounting firm, employees of the firm go into
19 the offices of different businesses and corporations and
20 check into the records to see if the transactions are being
21 properly recorded and to see if anyone is stealing, or if
22 there is any dishonesty in connection with the book entries,
23 and that's what auditing is all about; but, a tax preparer
24 may accept a figure given to him by his client as correct,
25 and is not required to look into his client's honesty.

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2 In this case, the defendant claims that in each
3 year he supplied his accountant with all pertinent informa-
4 tion to determine his gross income. The government, on the
5 other hand, contends that Mr. Meyers deliberately withheld
6 from Ernst & Ernst pertinent information or gave false in-
7 formation with respect to his true commissions for the
8 years in question, including his alleged failure to advise
9 the accountants of the repayment of the \$25,000 loan which has
10 been taken as a deduction in 1971.

11 In addition the government claims that regardless
12 of what information Meyers turned over to the accountants,
13 he knew at the time he signed his return that it was false
14 and thus attempted to evade his income taxes. Of course,
15 these contentions are denied by the defendant. They present
16 factual issues and it is for you to resolve these disputed
17 issues based on all of the evidence and using your common
18 sense and following my instructions as to the law.

19 If the defendant provided his tax preparer with
20 full, accurate and truthful information as to his deductions,
21 and income, and the defendant then adopted and filed and
22 signed the tax forms prepared by the accountant for him with-
23 out knowing they were incorrect, then you will find the
24 defendant not guilty as to the particular count you are
25 considering.

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2 However, if you find beyond a reasonable doubt
3 that the defendant did not willfully and knowingly provide
4 full and complete information to his accountants or gave
5 them false information or that he knew the returns prepared
6 by Ernst & Ernst for him were not correct and substantially
7 understated his tax liability, and if he knew that when he
8 filed them and he filed them with the intent of evading
9 taxes, then you are not required to acquit the defendant
10 simply because he didn't personally prepare his tax returns
11 or simply because Ernst & Ernst did a poor job.

12 If of course the giving of the false figures by
13 Mr. Meyers to Ernst & Ernst was merely a mistake on his part,
14 or a mistake on the part of his wife in making up schedules,
15 and if he did not know at the time he signed the return that
16 the return was false, and incorrect and materially under-
17 stated his tax, then in that case you must find a verdict
18 of not guilty because the law does not punish mistakes.

19 The crime charged here is knowing, willful and
20 intentional activity in connection with an attempt to avoid
21 taxes. If that's not what took place, then there's been no
22 crime, and as I said to you earlier, your duty is to acquit.

23 Now, with respect to the amended tax returns for
24 1971 and 1972 introduced in evidence by the defendant, I
25 wish to instruct you that the filing of an amended tax return

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2 does not constitute evidence that the original returns
3 filed for the same years were false and untrue. However,
4 you may consider the amended returns as proof that the re-
5 turns as originally filed for the same years were inaccurate.
6 In sum, while you can consider the amended returns as proof
7 that the original returns were incorrect, you cannot consider
8 the filing of amended returns as evidence of an attempt to
9 evade and defeat taxes at the time he filed the original
10 returns. You can't consider the filing of amended returns
11 as any admission of guilt.

12 If you find that the amended returns were filed
13 at a time when the defendant was not under compulsion, at-
14 tributable to an assertion of deficiency or a threat of
15 prosecution, then you may consider a filing of those returns
16 as evidence relating to his intent, and you may draw whatever
17 inference you might reasonably find proper as to the ulti-
18 mate issues in this case.

19 On the other hand, if you find that the amended
20 returns were not filed until after the defendant had been
21 made aware of the existence of the internal investigation
22 and the existence of an Internal Revenue Service audit,
23 which indicated a deficiency likely to be pursued, then you
24 should take those factors into account in deciding what
25 weight the filing of the amended returns is entitled to on

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1 the question of intent.

2 Just a few more matters, members of the jury.

3 Under your oath as jurors, you cannot allow the
4 consideration of the punishment or sentence which may be
5 inflicted upon the defendant, if he is convicted, to in-
6 fluence your verdict in any way or in any sense to enter
7 into your deliberations.

8 The duty of imposing a sentence rests exclusively
9 upon the Court. Your function is to weigh the evidence in
10 the case and to determine whether or not the defendant's
11 guilt has been proven beyond a reasonable doubt and to
12 decide that question separately as to each count solely
13 on the basis of the evidence and the law.

14 You are to decide the case upon the evidence
15 and the evidence alone and you must not be influenced by any
16 assumptions or conjecture or sympathy or any inference not
17 warranted by the facts. If you fail to find beyond a reason-
18 able doubt that the law has been violated, you should not
19 hesitate for any reason to find a verdict of not guilty.
20 That's your duty. But on the other hand, if you should
21 find that the law has been violated as charged, you should
22 not hesitate because of sympathy or any other reason to render
23 a verdict of guilt as a clear warning that a crime of this
24 character may not be committed with impunity. The public is
25

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1 entitled to be assured of this.

2
3 In that connection, it is your duty to take the
4 laws as they stand, including the tax law, and in deciding
5 this case you are not to consider any feelings you may have
6 as to whether the tax laws are fair or sensibly drawn or
7 properly administered.

8 Until meaningful tax reform takes place in this
9 country, it is the duty of every citizen to abide by the
10 law as it presently stands. In reaching your verdict you
11 should not be affected by any feeling of discontent or
12 disapproval which you may have about the federal income tax
13 laws.

14 A word about deliberating. Each juror in the
15 deliberations is entitled to his or her own opinion. Each
16 of you should exchange your views and opinions with your fellow
17 jurors. That's the purpose of jury deliberations, to discuss
18 the case and to agree together on a fair and just and proper
19 verdict, to listen to the arguments of fellow jurors and to
20 consider the evidence and to consult with one another and
21 express your own views.

22 I urge you in your discussions to do so politely
23 and don't all talk at once. Listen politely, speak
24 politely and be considerate of each other. Try to reach
25 a verdict, if you can do so, without violence to your
individual judgment.

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2 But each one of you must decide the case for
3 himself or herself after deliberations. After carefully
4 listening to all the arguments of your fellow jurors, if
5 any one of you entertains a conscientious view that differs
6 from the other, you are not to give up your view simply
7 because you are outnumbered or outweighed. Your final vote
8 must reflect your conscientious individual judgment as to how
9 the case should be decided. In order to find a verdict as
10 to any count, you must be unanimous.

11 Perhaps you will desire to have some part of
12 the testimony read to you. If that's so, please send out
13 a note signed by the foreman telling the Court exactly what
14 you would like to have read. I ask you not to request the
15 reading of the testimony until you have discussed it fully
16 and exhausted your recollection. But if you need to have
17 testimony read, I will be happy to do so for you.

18 If you have any question about anything the Court
19 has said in the course of its instructions, you may put that
20 in the form of a note. All notes will come from the foreman,
21 Mr. DiPressi, and notes are not to tell how the jury's vote
22 may then be divided. That may not be set forth in the note.

23 If you want a copy of the indictment, you can
24 send out a note for that. Bear in mind it is merely a charge
25 or accusation and has no status as evidence.

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2 Juror No. 1, Mr. DiPressi, is the foreman of the
3 jury.

4 Let me state that your oath sums up your duty and
5 that is without fear or favor to anyone you will well and
6 truly try the issues in this case and a true verdict give
7 according to the evidence.

8 It is important to the defendant and it is im-
9 portant to the government and it is important to you.

10 Would you swear the marshal.

11 (A marshal was sworn to stay with the jury.)

12 THE COURT: Now, Mrs. Meyers and Mrs. Peterson,
13 it turns out we haven't needed you because all our jurors
14 stayed healthy and attended regularly. At this time you
15 are excused with the thanks of the Court. I wish to instruct
16 you that the clerk here has your certificates and you don't
17 need to return. Your jury duty is concluded.

18 One more thing I would like to say to you. I am
19 instructing you both, do not discuss this case with anybody.
20 Don't speak to any of the attorneys or witnesses or anybody
21 and don't telephone or talk to any of the other jurors until
22 after the case is over. That might not necessarily be today.
23 So, you remain under my instructions until verdicts have been
24 received and recorded, do you understand? You may now each
25 leave the court. You are excused with the Court's thanks
for your attendance here.

1 ipjl

2 Now, at this time I ask the rest of the jurors
3 to remain briefly seated in the box while I confer in the next
4 room with the attorneys. That is to see if there is anything
5 else that they may wish to have me discuss with you.

6 There is the possibility I might find it proper
7 to give you additional instructions, so for that reason,
8 don't discuss the case with each other while you are seated
9 in the box. If both attorneys and the Court Reporter would
10 come inside, please.

11 (In the robing room.)

12 THE COURT: Mr. Jossen, do you have any additional
13 requests?

14 MR. JOSSEN: I have two. First I would request
15 the Court to give certain of the paragraphs from Government's
16 request number 7 with respect to willfulness and specifically
17 the language that willful intent may be inferred from any
18 conduct the likely effect of which would be to mislead or
19 reveal the true facts as to one's true taxable income.

20 THE COURT: I think I told them that in substance.

21 MR. JOSSEN: I would like you to instruct the
22 jury of the fact that a consistent pattern of understatement
23 of substantial income by a defendant and a knowingly under-
24 statement is conduct from which a willful attempt to evade
25 taxes can be inferred.

1 jpjl

2 THE COURT: I decline to so instruct.

3 MR. JOSSEN: I have one final request. Your

4 Honor made reference to the fact that the 1099 and W-2

5 forms had no relevance or nothing to do with any of the issues
6 in the case--

7 THE COURT: The fact that they don't have any
8 from the stock exchange or didn't in those years has nothing
9 to do with the case.

10 MR. JOSSEN: The government made argument con-
11 cerning the motive and absence of 1099's and W-2's.

12 THE COURT: I decline to change that.

13 MR. GALLOP: No exceptions or additions, your
14 Honor.

15 THE COURT: Thank you, gentlemen.

16 (In open court.)

17 THE COURT: I have nothing to say to you about
18 the case at this time. Before you continue your deliberations,
19 I do recognize the hour. I will sit with you as long as you
20 want to sit and then we will resume again tomorrow. When
21 you reach a point in the day where you believe it would be
22 wise to conclude your labors, then the foreman will send out
23 a note saying that the jury wishes to depart for the day.

24 So, you can make your own decision as to how late
25 you will stay. If any of you have to have messages sent out,

1 jpjl

2 the marshal will make phone calls to anyone's home, if you
3 want to do that. If you want to leave at five o'clock,
4 that's perfectly all right with me. You can do whatever you
5 like.

6 The marshall will provide dinner if you stay
7 beyond seven o'clock. He will also provide limousines to
8 take you home after dinner. Probably in the nine or ten
9 o'clock level.

10 If you want to suspend your operations around
11 five, that's okay, too. You can do anything you want to do.
12 Just reach an agreement on that and tell us by note, Mr.
13 DiPressi, what the jury wants to do.

14 Please withdraw and commence your deliberations.

15 (The jury commenced deliberations at 4:15 p.m.)

16 THE COURT: May we have a stipulation that if any
17 exhibits are requested by a note which is sufficiently
18 clear that the clerk may merely comply with the note?

19 MR. JOSSEN: Government so stipulates, your
20 Honor.

21 MR. GALLOP: So stipulated.

22 THE COURT: Would you all put the exhibits which
23 are in evidence in an orderly pile over there so that the
24 clerk can find them if there is such a note.

25 Put them over there on the table, please. I

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2 will be in recess pending further action.

3 (Recess while jury deliberation continues.)

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1 JPjw 1

2 (4:45 P.M.)

3 THE COURT: Bring the jury out.

4 (Jury returned to the courtroom at

5 4:45 p.m.)

6 THE COURT: Members of the jury, I have
7 your note, which is being marked as a Court's Exhibit.

8 The note says "The jury wishes to leave
9 for the evening and reconvene tomorrow a.m."

10 That is entirely satisfactory.

11 Before you leave, I want to say one or two
12 words to you. I think you should reconvene tomorrow
13 morning at 11:00 o'clock. I ask you all to be here in
14 this jury room promptly at 11:00 o'clock, at which time
15 attendance will be taken.

16 Now, until all the jurors get there, do
17 not deliberate the case. Do not discuss the case until
18 everybody can be in the room together and participate
19 equally. Because that's what jury deliberations are
20 about.

21 So, if a few of you get there before 11:00
22 o'clock, don't talk about the case until the rest are
23 there. I ask you all to be prompt so that proceedings
24 will not be delayed.

25 In the meantime, do not discuss the case

1 jpjw 2

2 with anybody else either at home or elsewhere. Do not
3 read anything or see anything that might affect the general
4 subject matter of the case or this particular case or
5 anything that might affect your ability to give a fair
6 and impartial verdict.

7 I have to say one more thing to you. We
8 need all twelve to get a verdict. We have no alternates
9 any more because I had to let them go under our rules.
10 So, please all of you stay in good health and make every
11 effort to be here tomorrow.

12 All right, you are relieved for the
13 evening.

14 (Jury excused for the evening at
15 4:50 p.m.)

16 THE COURT: Good evening, gentlemen.

17 (Adjourned to May 5, 1977 at 11:00 a.m.)
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1 JPjw 3

2 UNITED STATES OF AMERICA

3 v.

77 Cr. 227
(CLB)

4 HARVEY MEYERS

5
6 May 5, 1977
11:00 A.M.
7

8 (Jury commenced deliberations
9 at 11:00 a.m.)

10 (In open court - 12:20 p.m.)

11 THE CLERK: Court's Exhibit 2 received
12 from the jury, requesting various exhibits.

13 (Deliberations continued)

14 (In open court - 2:15 p.m.)

15 MR. JOSSEN: May the record reflect in
16 the presence of Mr. Gallop that in accordance with
17 Title 18 United States Code Section 3500, the government
18 turned over to defense counsel in a timely manner the
19 following 3500 material:

20 3501 through 3510 and from 3512 through
21 3522.

22 In addition to the information referred
23 to above, prior to the testimony or the completion of the
24 direct testimony of James Crumlish, the government
25 turned over to Mr. Gallop the Ernst & Ernst work file for

1 jnjw 4

2 the 1971 tax return which contained certain work papers
3 of Mr. Crumlish; is that correct, Mr. Gallop?

4 MR. GALLOP: Correct.

5 MR. JOSSEN: You acknowledge receipt of
6 all the material described?

7 MR. GALLOP: Yes.

8 (Description of the 3500 material is as
9 follows:

10 3501 is Crumlish grand jury testimony.

11 3502 Crumlish Q and A, 6/3/74.

12 3503 Rubin grand jury testimony.

13 3504 Rubin Q and A, 5/16/74.

14 3505 Rubin Revenue/Agents work papers,
15 11/17/73.

16 3506, Buchbinder grand jury testimony.

17 3507 Buchbinder work sheets.

18 3508, Keller Q and A dated 5/23/74.

19 3509 RAR, Revenue Agent's report.

20 3510 memo of conference with regard to the
21 witness Fernandez, 10/15/74.

22 3512, memo of conference with Mr. Gallop,
23 5/2/74 and 9/15/74.

24 3513, work sheet of Ernst & Ernst file,
25 1972, heading H & M Meyers tax computations.

1 jpjw 5

2 3515, work sheets of Ernst & Ernst file,
3 1972. Heading, Schedule C.

4 3515, work sheets of Ernst & Ernst file,
5 1972. Heading, New York NYSE and NSE, etc.

6 3516, one page notes dated 10/20/73.

7 3517, one page bank deposit analysis
8 during audit.

9 3518, summary of chart.

10 3519, Hartnett memo, re: Fernandez.

11 3520, one page, analysis of reporting
12 commissions.

13 3521, diary of Crumlish, 1971.

14 3522, Robert J. Jossen letter to Judge
15 Brieant, Re: The Witness Rubin.

16 (Deliberations continued)

17 (In open court - 2:55 p.m.)

18 THE COURT: Good afternoon members of the
19 jury.

20 THE CLERK: Mr. Foreman, have you agreed
21 upon a verdict.

22 THE FOREMAN: Yes, we have.

23 THE CLERK: How do you find the defendant
24 on Count 1?

25 THE FOREMAN: Guilty, sir.

1 jpjw 6

2 THE CLERK: Count 2?

3 THE FOREMAN: Guilty.

4 THE CLERK: Members of the jury, listen to
5 your verdict as it stands recorded.

6 You say you find the defendant guilty on
7 Counts 1 and 2.

8 (Jurors polled as to their verdict and
9 all answered in the affirmative)

10 THE COURT: I will direct that the clerk
11 record the verdict and I will direct that the probation
12 officer of the United States District Court for this
13 District make a full presentence investigation and recommenda-
14 tion into the case of Mr. Meyers and I will give you all
15 a date to come back.

16 As far as the jurors are concerned, you are
17 now excused and the clerk has your certificates of service.
18 You don't have to come back tomorrow. Your service is
19 concluded.

20 At the same time, you are relieved from my
21 direction that you can't discuss the case. Because now
22 your work as jurors is complete. However, I want to tell
23 you at this time that no one can require you to discuss
24 this case with them. I generally encourage jurors not to
25 discuss cases afterwards. Your work is done and there is

1 jpjw 7

2 no need to look back on it. You have your rights of
3 free speech, however, and you can say what you please and
4 you can talk to whomever you please.

5 By the same token, no person, not even the
6 Court, has any right to harass you or ask you any
7 questions about your verdict or what your reasoning is
8 or anything like that.

9 If any person should bother you at your
10 homes or anything like that, you report that to the
11 Chief Judge of this Court, Chief Judge Edelstein.

12 You are now excused with the thanks of the
13 Court. I appreciate your prompt attendance and the
14 marshal here has your certificates which he will give you
15 on your way out.

16 (Jury excused from the courtroom)

17 THE COURT: What date, Mr. Clerk?

18 THE CLERK: June 17th.

19 THE COURT: 9:30 in the morning. June
20 17th. I take it there is no problem with his bail,
21 Mr. Jossen?

22 MR. JOSSEN: Your Honor, I believe there
23 is none. Except that I would request if this has not
24 been done already, that a passport be surrendered if Mr.
25 Meyers has one.

1 jpjw 8

2 THE COURT: If he has any passport, he
3 must turn it over.

4 MR. GALLOP: I will turn it over.

5 Your Honor, may I have until June 1st to
6 make any motions?

7 THE COURT: Yes, certainly. You must be
8 here before me on June 17th, at 9:30. That is your sentence
9 date. If you fail to show up, another charge will be
10 lodged against you for bail jumping.

11 All right, we will be in recess.

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 -----X

4 UNITED STATES OF AMERICA :

5 v. :

77 Cr 227

6 HARVEY S. MEYERS, :

7 Defendant. :

8 -----X

9 New York, N. Y.

June 17, 1977 - 10:45 a.m.

10 B e f o r e :

11 HON. CHARLES L. BRIEANT,

12 District Judge

13
14 Appearances:

15 ROBERT B. FISKE, JR., Esq.

16 United States Attorney for the
Southern District of New York

17 BY: ROBERT JOSSEN, Esq.
Assistant United States Attorney

18 KALMAN V. GALLOP, Esq.

19 Attorney for Defendant

1 WC

2 THE CLERK: United States of America v.
3 Harvey S. Meyers.

4 MR. JOSSEN: Government is ready, your Honor.

5 MR. GALLOP: Defendant is ready.

6 THE COURT: Mr. Gallop, is there any reason why
7 sentence should not be imposed at this time?

8 MR. GALLOP: No, your Honor.

9 THE COURT: Mr. Meyers, is there any reason why
10 sentence should not be imposed at this time?

11 THE DEFENDANT: No, your Honor.

12 THE COURT: Mr. Gallop, you may be heard in
13 your client's behalf and may present information in
14 mitigation of sentence.

15 MR. GALLOP: Your Honor, I know you have read
16 the presentence report, and I have also submitted to your
17 Honor a memorandum. I also understand that you are in
18 receipt of a letter from Mr. Meyers, his wife, and several
19 other letters. And rather than take up the time of the
20 Court, I will try not to be repetitious.

21 It is clear that whatever faults Mr. Meyers
22 might have, he is a devoted husband and father, and he has
23 devoted himself to his family and his children, and I
24 myself have had the opportunity to meet his family, and it
25 is clear that he has a great love and affection for them.

1 At this juncture in his life, to separate him
2 from his family and especially his two young children is
3 a serious thing.

4 I have also pointed out to your Honor about
5 the severe economic repercussions that this case would
6 have with regard to Mr. Meyers' livelihood. He is not a
7 defendant who needs rehabilitation, in my opinion, nor
8 does the Government need revenge in this particular case.
9 I understand that the interests of justice must be
10 served, and I know Mr. Meyers is anxious to get this
11 unpleasant and difficult episode behind him.

12 I have pointed out various alternatives in
13 my memorandum to your Honor, and if this Court feels
14 that a period of incarceration is necessary, I would
15 respectfully request that it be such a period as can be
16 consistent with the interest of justice and still tempered
17 with mercy and understanding for his wife and for his
18 children.

19 I ask your Honor to take these facts and those
20 facts already presented to this Court into consideration.

21 THE COURT: Mr. Meyers, you may be heard at
22 this time and may present any information in mitigation of
23 sentence.

24 THE DEFENDANT: Your Honor, I just would like to
25 make one remark that is not in any one of my letters or in

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any presentence memorandums that my counsel has submitted to you. And I will be brief. Two governors of the New York Stock Exchange, probably two of the most important men at the stock exchange, have taken a rather personal interest in this matter. They bent over backwards and I believe have done something for me which they have never had to do or ever done before. They allowed me to remain a member in good standing of the New York Stock Exchange after the jury came in with its verdict on May 5.

They had several private meetings with me and spelled out the facts. The facts are simply this: In the event that this Court finds that I must be locked up, put away, incarcerated, or whatever the word is, it is a certainty that my expulsion from the New York Stock Exchange would be immediate. In the event -- and it is a very iffy situation -- in the event that I am punished in a way where I can be of service to the community, working in a hospital, working sweeping the streets on weekends if possible or locked up on weekends, there is a vague, just a vague, but there is the possibility that I may be able to convince the additional governors of the exchange which will hear the case, hear my matter --

THE COURT: That is very puzzling to me.

THE DEFENDANT -- to remain with the exchange.

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1 THE COURT: Because if the basis for expulsion
2 is moral turpitude, then it is the fact of the crime and
3 not the fact of the sentence, isn't it?
4

5 THE DEFENDANT: Well, there is an iffy situation.
6 Under the new Securities and Exchange Commission Act of
7 1975, the one that President Nixon signed prior to his
8 resignation, full power was removed -- it is a technicality
9 but nevertheless it exists -- full power was removed from
10 the stock exchange to take immediate action. This matter
11 has been sent to and the Securities and Exchange Commission
12 has been alerted. I have heard nothing from the
13 Securities and Exchange Commission to this date, and
14 neither has the New York Stock Exchange. The opinion of
15 Mr. Thomas Coleman, Mr. George Rose, these two governors
16 that I mentioned to you, is that because this does not
17 involve a matter directly related or even indirectly
18 related with the securities business -- no stock fraud,
19 there is no manipulation, there is no illegal trades, it
20 has nothing to do with stocks, bonds, underwritings or
21 anything else -- there is a very good chance that the
22 Securities and Exchange Commission will take no action.

23 Therefore, because the New York Stock Exchange
24 is in this iffy situation, there is a chance that I might
25 be able to remain a member of the exchange.

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2 I give this to you just for what it is worth,
3 and I have nothing else to say.

4 THE COURT: I will not be affected in my
5 imposition of sentence by that point, but I will say this
6 to you, and I will state it to you on the record for
7 whatever benefit it will serve in your dealings with the
8 New York Stock Exchange, which I assume administers its
9 affairs in a just fashion. No one is convicted until a
10 final judgment of conviction is entered, and that judgment,
11 although denominated a final judgment, does not really
12 become so until appellate review has been exhausted. And
13 it would seem to me that during that period it would be
14 unfair and inappropriate for the stock exchange to reach
15 any such decision of finality like expulsion.

16 I do not undertake to operate the affairs of
17 the New York Stock Exchange. They have their rights, and
18 I trust they would hold a hearing before expelling anybody.
19 The only observation I will make today is that the case
20 is not entirely over as far as you are concerned, notwith-
21 standing the views that I have about the case.

22 Is there anything more you have to say?

23 THE DEFENDANT: No, just that their exact words
24 to me -- and I only express this thought to you based on
25 their exact words to me -- their exact words to me were

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2 that prior to the 1975 Securities and Exchange Commission
3 Act—I was found guilty on May 5, my birthday, the next day
4 out. I would not have been allowed to practice brokerage
5 on the floor of the New York Stock Exchange. Whether they
6 are correct or they are incorrect, I have to assume that
7 they are correct because of their positions. But, as you
8 said, you know, it is unimportant at this time.

9 THE COURT: But if your own situation rises to
10 a magnitude which requires expulsion, it would not make
11 any difference logically what imposition the Court placed
12 upon you. The Court is serving the interests of society,
13 not concerned with the internal workings of the stock
14 exchange.

15 THE DEFENDANT: I understand that, sir.

16 THE COURT: Does the Government have any
17 comments or recommendations?

18 MR. JOSSEN: Yes, your Honor, just briefly, if
19 I might. Of course, your Honor presided at the trial and
20 is familiar with all the facts in this case. The
21 Government views the particular offense here to be a very
22 serious one, and on this record, as committed by this
23 defendant, a particularly serious offense.

24 Mr. Meyers was involved in what was deliberate
25 and calculated conduct for a period in excess of a year --

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in fact, two years. We submit that the proof clearly showed that he took or attempted to take calculated advantage of the Internal Revenue Service laws themselves in his efforts to evade taxes. And we think these are all factors which the Court should properly take into account in passing sentence in this case, bearing in mind the need to see that the Internal Revenue Laws themselves are enforced, in cases such as this one, for the purpose of deterrence with respect to all other people who must pay their taxes under the laws as they exist today.

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I would finally add, your Honor, that the Government opposes the suggestion made in Mr. Meyers' papers that if your Honor determines a period of incarceration is warranted in this case, that that sentence be imposed on weekends. We think that that creates, No. 1, a serious administrative difficulty for the Bureau of Prisons --

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THE COURT: That is a foolish argument.

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MR. JOSSEN: In addition to that, your Honor, I should say, more significantly, in cases of this type we think that the appearance of equal justice is extremely important and that if a period of incarceration is imposed in this case, that weekend sentences in this case will be an advantage frequently not extended to many other

1 WC

2 defendants not in the same situation as Mr. Meyers but
3 who might have available to them the very same arguments
4 that he has proffered here in support of weekend sentences.

5 THE COURT: As I started to tell you a moment
6 earlier, Mr. Meyers, and I now again instruct you, the
7 sentence about to be imposed by this Court is a final
8 judgment of conviction, and you have an absolute right
9 within ten days to seek appellate review, that is to say,
10 to take an appeal from the judgment to the Court of Appeals
11 of the Second Circuit. Furthermore, if you are indigent --
12 that does not appear to the Court that you are in fact
13 indigent -- but if you are, the Court will appoint an
14 attorney to represent you on appeal if you cannot afford
15 an attorney.

16 Do you understand your right to appeal?

17 THE DEFENDANT: I do, sir.

18 THE COURT: Have you made arrangements to file
19 the appeal, Mr. Gallop?

20 MR. GALLOP: Well, I have the papers, your Honor,
21 and I think, somewhat depending upon this Court's sentence,
22 we will make that finding.

23 THE COURT: I would encourage you to take the
24 appeal anyway, because he stands convicted of a crime
25 involving dishonesty.

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2 MR. GALLOP: I understand.

3 THE COURT: That is the beginning of the
4 Court's discussion of sentence. It is true that your
5 conviction visits a tragedy on your family. It is true
6 that this conviction would cause you large economic loss.
7 Almost any convicted criminal can make that claim. The
8 Court regards those matters as deserving of only very
9 slight weight in the matter.

10 The Court is also not concerned with the
11 internal workings of the stock exchange. They have their
12 work to do; I represent the public interest and not the
13 interest of the stock exchange members.

14 I do believe that until your appeal is finally
15 determined it would be unfair to you for them to proceed,
16 but that is merely an expression of views on the part of
17 the Court. I think the nature and extent of the sentence
18 imposed has nothing to do with what action they should take.
19 You are either unworthy to continue as a member because of
20 your dishonesty or it is proper for you to continue as a
21 member, one or the other. The extent of the Court's
22 sentence has nothing to do with that and is inappropriate,
23 in my view, to make or to suggest to this Court that your
24 expulsion or nonexpulsion would depend on the degree or
25 extent of the sentence imposed on you.

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2 It is true that this is a very serious crime.
3 It is a crime which strikes at the administration of the
4 government, because of the necessity to collect taxes.
5 It is essential that the public perceive that these
6 Internal Revenue laws, which are rotten to the core but
7 they are imposed by Congress, are fully and completely
8 enforced and that no person is permitted with impunity to
9 hatch up an intricate scheme whereby he can get around his
10 taxes.

11 You were a hard-working person. You had a job
12 which was not easy, took long hours. You received twelve
13 checks a year, if I recall correctly, from the exchange.
14 So the disparity between the tax return of these two years
15 and the actual income that you received in these greatest
16 years, to me presents a really cold and calculated, wilful
17 evasion of tax, taking advantage of the fact you were so
18 situated that you could do it. And I think it has to be
19 treated seriously.

20 The Court has to regard the matter from the
21 point of view of general deterrence against other taxpayers
22 who work just as hard for their money as you do and would
23 resent the inequalities and unfairness of the federal tax
24 laws as much as I am sure you do.

25 The probation office reports that the offender sali

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2 factor score on this case is 11; that the parole release
3 guideline period is 16 to 20 months; and that a sentence
4 between 24 and 60 months will probably result in parole
5 at least during the guideline period, assuring ordinary and
6 satisfactory institutional adjustment.

7 The probation office also reports -- I concur
8 with their evaluation -- that your offense was motivated
9 by greed, and that it is proper for the Court to serve
10 notice that illegal activities conducted by responsible
11 persons such as yourself of this nature cannot be
12 tolerated, and as a measure of deterrence to others, the
13 Court has to sustain the law by imposing an appropriate
14 period of imprisonment. I do so without regard to the
15 effect on your family or on your economic status or anything
16 else.

17 For those reasons it is the judgment of the
18 Court that you are fined \$5,000 on count 1 and sentenced
19 to a term of two years, and on count 2 you are sentenced
20 to a term of two years, concurrent with the sentence imposed
21 on count 1.

22 I will continue your bail pending appeal.

23 The Court will take a brief recess.

24 MR. GALLOP : Your Honor, was there a \$5,000
25 fine on the second count?

THE COURT: No, only on count 1.

- - -

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P-1	205	333
N		336
R	345	345
S ,T		373

561A

EX W5-1

USA 338-475
(ED. 4-23-71)

GOVERNMENTS

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

4A:J.

1,302.20
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 34.90
 45.50
 3,104.40
 334.80
 3,974.950 *
 Total
 Gross
 Floor Items

USA 338-475
(ED. 4-23-71)

GOVERNMENT'S

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

4-10

562A

1,302.20
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 3,104.40
 334.80
 3,749.50 *

Total
 Gross
 Floor Income

582A-1

USA 338-475
(ED. 4-23-71)

GOVERNMENTS

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

7:4.

5,202.07
577.69
182.00
100.00
2,395.84
1,360.00
150.00
821.37
1,199.93
550.00
5,000.00
1,273.95
463.18
234.10
360.00
6,228.92
4,050.00
1,778.07
825.48
3,239.58
9,864.34
857.10
129.00
538.00
744.00
1,300.00
1,000.00
25,000.00
2,700.00
400.00
78,522.62 *

1971 TAX INFORMATION

- 1- NYSE, USE, NY MERCHANTILE
EXCHANGE DUES, ALSO SIPE
CHARGES AT USE, + NYSE. 5,202.07✓
- 2- NYSE PRINTING COST 577.69✓
(See CAL. CHECKS AND BILLS)
- 3- Financial publications 182.00✓
 A. PARRON'S
 B. Wall ST Transcript
 C. FORTUNE MAG.
 D. FORBS
 E. N.Y. TIMES
 F. Wall ST Journal
- 4- NYSE Employee (Joe Larkitz) 100.00✓
- 5- Error Act for NYSE floor 2,393.84✓
- 6- Xmas gifts for employees
of NYSE AND EMPLOYEES OF FIRMS
I DO BUSINESS P.E. (EXPLANATION IS ON
EACH CHECK FOR FIRM EMPLOYEE) 1,360.00✓
- 7- WORK JACKET AND WEAVING COSTS
AT NYSE \$3.00 PER WEEK X 50 WEEKS 150.00✓
 (A) $\frac{2394}{821} = 3215$
- 8- USE LOSS ON HANDING ERROR
(FLOOR OF NYSE) 821.37✓
- 9- NYSE LUNCHEON CLUB 1,199.93✓
- 10- ERNST + ERNST ACT. BILLS 550.00
- 11- LEGAL BILL FOR GARAGE NEGOTIATIONS
THAT FELL THRU FOR PURCHASE OF
GARAGE ON 85TH ST + 10TH AVE (SEE CXL. CHECK
#376) 5,000.00✓

(Page 2)

- 12- Medical payments 1,273.95
- 13- PHARMACY PAYMENTS 463.18
- 14- GUARDIAN Life Insurance
Co. of America premium (policy
E 165653) 234.10-
- 15- Life Insurance Policy #4081-014-98
(Lewis M. GABAE & Co.) 360.00 -
- 16- U.S.E, USE, T & E EXPENSES
(See DIARY FOR 1971) 6,228.92 ✓
- 17- INTEREST PAYMENT ON \$60,000 $\frac{6\frac{3}{4}}{100}$
AT 6 $\frac{3}{4}$ % 4,050.00 ✓
- 18- PHONE Bills " 1,778.07 ✓ 75%
- 19- GAS, oil AND CAR REPAIRS
(See receipts) 825.48 ✓ 75%
- (\$100.00 CAR REPAIR bill PD. IN WASH)
- 20- PARKING AND AUTO COSTS
(See CXL CHECKS) 3,239.58 ✓ 75%
- 5843.13
- 21- STATE, FEDERAL + City TAX
PAYMENTS (See CXL CHECKS) - 4,921 Fed 9,864.34 ^{calc. estimate}
- 22- Sales TAXES (NYC). 857.10 ✓
- 23- Cost of Membership in TEHRIS INC
FOR BUSINESS REASONS 129.00 ✓
- 24- Self EMPLOYMENT TAX 538.00 ~~NA~~
- (SAME AS 1970)
- 25- Rent ON BUSINESS PROPERTY $11,710 \times 10\%$ ~~744.00~~ ^{allocations}
- 26- PROPERTY Loss (Sunk ship &
to P.R.) (See invoice & claim) 1,300.00 ✓

562A-4

(PAGE 3)

27- BAD DEBT (J.J Philips)
(See exl check)

1,000.00 ✓

28- BAD BUSINESS DEBT Trading in Boff Future
(M. Fernandez) See exl check imputation from D.R To P.A. 25,000.00 ✓

29- PERSONAL SOLUTIONS FOR

A. HARVEY MEYERS

B. MARIA MEYERS

C. ALEXANDRA MEYERS

D. CHANTAL MEYERS

2,700.00 ✓

30- CHARITY GIFTS (27500 in exl
CHECKS) \$12500 VARIOUS CASH DONATIONS
to Red Cross, United Fund, U.S.A)

400.00 ✓

75% after.

	78,522.62
<	4,921.00 >
<	1,461.00 >
<	538.00 >
	432.00
<	100.00 >
<	594.10 >
	71,340.52

Sam H Haemis for K+B purchase
123 High Ridge Rd
Stanford Conn.

324-4187

477
200.86

76

1100
1100
1100

USA 33s - 475
(ED. 4-23-71)

GOVERNMENT'S

EXHIBIT

U. S. DIST. COURT

D. OF N. Y.

9:10.

563A-1

~~9 id.~~

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USA 33s - 475
(ED. 4-23-71)

GOVERNMENT, P

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

9 A ~~id.~~

HARVEY S. MEYERS
160 EAST 65TH STREET

391

120

PAY
TO THE
ORDER OF

MARCELINO FERNANDEZ

\$25,000.00

Twenty Five Thousand and 00/100

DOLLARS

IRVING TRUST COMPANY

MADISON AVENUE AT 39TH STREET

MADISON AVENUE AT 39TH STREET
NEW YORK

1:0210 0067 06 06 24 "0002500000"

000 2500000

YADA
EED

ANKE 8748 101-202-

San Jiao Branch

For deposit only to the account of
FROZEN, INC.

129 - 453 - 7

PAY AND DEDUCTIONS
 OF THE CLUB
 R.A. NEW YORK

GOVERNMENT'S
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

101

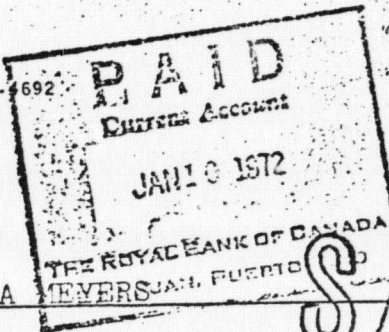
564A

FROZENS, C.

P. O. BOX 3824 - TELS. 725-5977 722-4692
SAN JUAN, PUERTO RICO 00904

NO. 2397

101-2
215



28 Diciembre 1971

PAY
TO THE
ORDER OF

ALEXANDRA

S/S

\$ 1,095.89

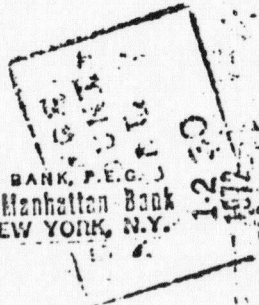
THE ROYAL BANK OF CANADA
SAN JUAN, PUERTO RICO

FROZENS, INC.

⑆0215⑆0202⑆ 865⑆1294537⑆

⑆0000109529⑆

Maria Meyers I/T/F
ALEXANDRA L. MEYERS
Indeposit only into Acct #
030 07094



PAY ANY BANK, P.E.G.
The Chase Manhattan Bank
N.Y. NEW YORK, N.Y.

1-2
1972

5
JAN

ملف ۱۱

565A

FROZENS, C.

P. O. BOX 3824 - TELS. 725-5977 722-4692
SAN JUAN, PUERTO RICO-00904

NO. 3127

101-202
215

PAID

30 Septiembre 1972

OCT 4 '72

\$-15,000.00

THE
DER OF.

THE

190000000000

DOLLARS

THE ROYAL BANK OF CANADA

SAN JUAN, PUERTO RICO

PROZENS, INC.

THE ROYAL BANK OF CANADA

SAN JUAN, PUERTO RICO

1:021502021: 8651294537

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for deposit only into checking

Σ.Ο.Π.Α.Σ.Ε.Ο. 19.1.74

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46 NEW YORK
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1710742


 PAYABLE TO THE ORDER OF
 The Chase Manhattan Bank
 N.A. NEW YORK, N.Y.

1-2
1972

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OCT

W. The Chicago News
N.A. NEW YORK

USA 331-475
(ED. 4-23-71)

GOVERNMENT

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

12/10

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3369

FROZENS, IC.

P. O. BOX 3824 TELS. 725-5977-722-4692
SAN JUAN, PUERTO RICO 00904

PAID

22 Diciembre 1972

101-202
215

\$10,000.00

TO THE
ORDER OF

M. JAMES - 73

THE SUM OF TEN THOUSAND DOLLARS

DOLLARS

THE ROYAL BANK OF CANADA

FROZENS, INC.

SAN JUAN, PUERTO RICO

THE ROYAL BANK OF CANADA

SAN JUAN, PUERTO RICO

⑆0215⑉0202⑆ 865⑉1291537⑈

⑈0001000000⑈

Handwritten notes:
M. James
JAN 8 73
C.S. 144769

4 1-123
PAY ANY BANK
4 1-123

740011

PAY ANY BANK, P.E.G.
The Chase Manhattan Bank
N.A. NEW YORK, N.Y.

5
JAN

PAY ANY BANK, P.E.G.
The Chase Manhattan Bank
N.A. NEW YORK, N.Y.

GOVERNMENT'S
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

1318

56.A

FROZENS, INC.

P. O. BOX 3824 TELS. 725-5977-522-1692
SAN JUAN, PUERTO RICO 00904

3368

PAID

22 Diciembre 1972

101-202
215

PAY TO THE
ORDER OF

101-202
215

JAN 9 MEYERS

\$ 252.05

THE SUM 252 DOL 05 1/10

THE ROYAL BANK OF CANADA

DOLLARS

SAN JUAN, PUERTO RICO

FROZENS, INC.

THE ROYAL BANK OF CANADA

SAN JUAN, PUERTO RICO

⑆0215⑆0202⑆ 865⑆1294537⑆

⑈0000025205⑈

1-120 2
PAY ANY BANK
FRS NEW YORK
1-120 2

PAY ANY BANK, P.E.C.
The Chase Manhattan Bank
N.A. NEW YORK, N.Y.

PAY ANY BANK
The Chase Manhattan Bank
N.A. NEW YORK, N.Y.

BEST COPY AVAILABLE

566A

USA 33a-475
(ED. 4-23-71)

GOVERNMENT'S

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

1410

July 21ST 1971

Mr. Maclean personally
in person telephone
conversation, enclosed please
find check made out to you
in amount of \$25,000.⁰⁰

This is a personal loan
non interest bearing and is
to be returned as soon as you
can.

Very truly yours

Henry S. Morgan

GOVERNMENT'S

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

1548

569A

FROM

FROZENS, INC.

P. O. Box 3824 • Old San Juan Station, P.R. 00904

Phones: 725-5977 • 722-4592

Cable Address: FROZENS • Telex: 3453010 (Via I.T.T.)

Mr. H. Meyers,
NYC, NEW YORK.

SUBJECT:
FOLD HERE
DATE

July 24, 1971.

Dear Harvey :

Just a couple of lines to acknowledge receipt of your check No. 391,
dated 7/21/71 - Irving Trust Company- in the amount of ...\$25,000.00.
We accept this money as a loan which we will repay as soon as possible.
I wish to thank you for your prompt reply. We will keep in touch.

The family all Okay. Warmest regards.

SIGNED

Marcelino Fernandez II

GOVERNMENT'S

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

1610

579A

FROM

FROZENS, INC.

P. O. Box 3824 • Old San Juan Station, P. R. 00904

Phones: 725-5977 • 722-4692

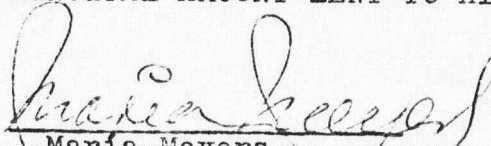
Cable Address: FROZENS • Telex: 3453010 (Via I.T.T.)

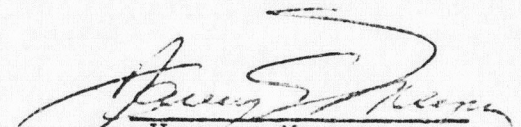
SUBJECT:
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DATE

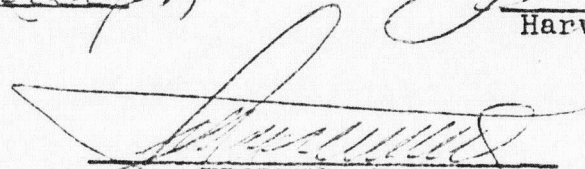
September 30, 1972

RECEIPT

I RECEIVED FROM FROZENS, INC. (Marcelino Fernández Conde)
CHECK #3127 ROYAL BANK OF CANADA- DATED SEPTEMBER 30, 1972,
IN THE AMOUNT OF \$15,000.00 (U.S.) AS PARTIAL PAYMENT OF
PRINCIPAL AMOUNT LENT TO HIM. BALANCE PEN. ING NOW..\$10,000.00.-


Maria Meyers


Harvey Meyers


FROZENS, INC.
Marcelino Fernández Conde

SIGNED

GOVERNMENTS

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

174D

571A

FROM

FROZENS, INC.

P. O. Box 3824 • Old San Juan Station, P. R. 00904

Phones: 725-5977 • 722-4692

Cable Address: FROZENS • Telex: 3453010 (Via I.T.T.)

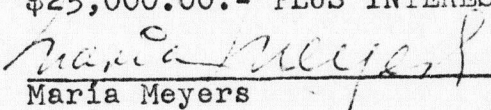
SUBJECT:
FOLD HERE
DATE

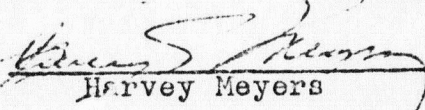
December 22, 1972

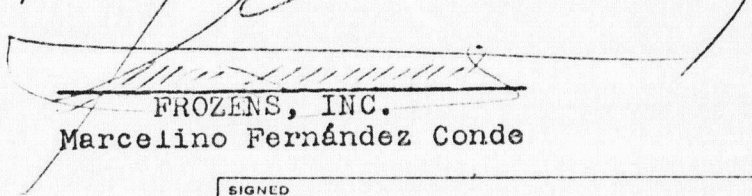
RECEIPT

I RECEIVED FROM FROZENS, INC. (Marcelino Fernández Conde)
CHECK #3369 ROYAL BANK OF CANADA-DATED DECEMBER 22, 1972,
IN THE AMOUNT OF \$10,000.00 (U.S.) AS FINAL PAYMENT OF
PRINCIPAL AND INTEREST ON LOAN MADE TO HIM.

TOTAL AMOUNT RECEIVED INCLUDING TODAY'S CHECK PRINCIPAL
\$25,000.00.- PLUS INTEREST.-


Maria Meyers


Harvey Meyers


FROZENS, INC.
Marcelino Fernández Conde

SIGNED

Government's Exhibit 24

363rd Day—2 days to failure

CLEAR
 CLOUDY
 RAIN

363rd Day—2 days to failure

HAY & FEY'S

DATE OF CHARGE

ESTABLISHMENT

SIGNATURE

PURCHASE PRICE

TAXES

TOTAL

1091

MERCHANDISE AND/OR SERVICE PURCHASED ON THIS CARD
 SHALL NOT BE REFUND OF RETURNED FOR CASH REFUND

INVOICE NUMBER

953845

CHARGE RECORD

December 29, 1954

Mr & Mrs Fernandez
RE.
Dominican Investment
Corp of Dominican Republic
Investment.

[Handwritten signature]

BEST COPY AVAILABLE

573A

DESCRIPTION OF GOVERNMENT'S EXHIBIT 26 FOR IDENTIFICATION

The following page is a recapitulation of Government's exhibit 26 for identification. The exhibit consists of a chart approximately 3 feet x 4 feet.

SUMMARY OF REPORTED AND CORRECTED TAX LIABILITY FOR HARVEY MEYERS

	<u>1971</u>	<u>1972</u>
Gross Receipts as Reported on: Line 1, Schedule C of Filed Return	\$ 89,750.00	\$100,231.00
Total Gross Receipts Based on:		
Form 600	119,112.89	157,152.77
Commission Bill Settlement Statements	119,114.10	157,169.20
Unreported Gross Receipts Using:		
Form 600	29,362.89	56,921.77
Commission Bill Settlement Statements	29,364.10	56,938.20
Taxable Income As Reported	21,587.00	52,366.00
Corrected Taxable Income	51,438.10*	134,304.20 (Inc \$25,0
Tax Liability As Reported	4,888.00	18,254.00
Corrected Tax Liability	17,779.05	59,688.93
Deficiency	12,891.05	41,434.93

* Includes \$487.00 decrease in itemized deductions.

** Recovery of Fernandez loan deducted as a business bad debt in 1971.

Govt.'s Ex.
26 id.

GOVERNMENT'S

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

575A

July, 28, 1971.

Dear Mr. Harvey :

I acknowledge receipt of your check \$25,000.00, dated the 21st
of this month.

According to our conversations I shall use this money in some way
promising dealings on meats - imported from American Central or
Republica Dominicana. There is good potentials in this places and
I am sure we can make money. Maybe we can do something on fish too.
I will keep you posted.

It is agreed that this \$25,000 will be repaid upon demand.

Truly yours

Marcelino
MARCELINO.

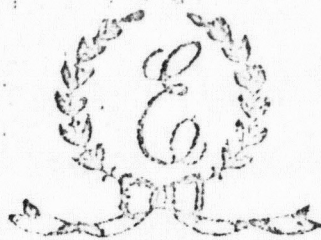
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GOVERNMENT'S

EXHIBIT

U. S. DIST. COURT
S. D. OF N. Y.

290



El Embajador

SANTO DOMINGO
Rep. Dominicana

576A

CABLES: INHOTELCOM
TEL 534-2131

NOVEMBER 10, 1971.

Mr. Harvey Meyers,
New York City, N.Y.

Dear Mr. Meyers :

As I explained on the telephone we are having serious troubles with the dealings on meats and fish on which you are a partner with us.

We have had rejections and as of this moment I cannot determine if any portion of the investment can be salvaged. I doubt very much if can recover even a fraction of the money.

I am sorry about your money but it sometimes works that way. I will let you know later the final outcome. In the meantime we are sorry we cannot repay any portion of your money.

Sincerely,

Marcelino
Marcelino.



GOVERNMENT'S

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

3018

577A

January 28, 1972.

Mr. Harvey Meyers,
New York, USA.

Dear Mr. Meyers:

In our telephone conversations of the past days as well as in my previous correspondence I told you we had problems and objections on the plans we were working and that there was a substantial loss and everybody including you.

Like I said, it is impossible to repay you and portion of your \$25,000.00 the amount is lost. Please, look my previous letters where I told you about the situation we encountered.

I regret what is happening but there is nothing we can do at this moment.

Sincerely,

Marcello
MARCELLO.

BEST COPY AVAILABLE

576A

JANUARY							FEBRUARY						
S	M	T	W	T	F	S	S	M	T	W	T	F	S
							1	2	3	4	5	6	7
8	9	10	11	12	13	14	15	16	17	18	19	20	21
22	23	24	25	26	27	28	29	30	31				

1972
JANUARY

SATURDAY, JANUARY 1

1. *109th at Clarendon*
 2. *171 Income tax: RE.*
 3. *investment in Dominican*
 4. *in public with Mr. Franklin*
 5. *trying to see if any part*
 6. *of \$5000 investment could be*
 7. *used*
 8. *Rest. in San Juan P.R. 1/1/72*
 9. *109th*
 10. *109th*
 11. *109th*
 12. *109th*
 13. *109th*
 14. *109th*
 15. *109th*
 16. *109th*
 17. *109th*
 18. *109th*
 19. *109th*
 20. *109th*
 21. *109th*
 22. *109th*
 23. *109th*
 24. *109th*
 25. *109th*
 26. *109th*
 27. *109th*
 28. *109th*
 29. *109th*
 30. *109th*
 31. *109th*

SUNDAY, JANUARY 2

092 581 106 9 00AX		MEMBER SINCE 67		APPROVAL CODE 98803	
HARVEY S MEYERS		DATE OF CHARGE 42 31 71		CHECK OR BILL NUMBER	
9354620909		PURCHASES & SERVICES 109 th		TAXES	
9381000216		TAXES		TAXES	
006361 ABC		TAXES		TAXES	
SIGNATURE <i>Harvey S Meyers</i>		TAXES		TAXES	
MERCHANDISE AND/OR SERVICE PURCHASED ON THIS CARD SHALL NOT BE REBILLED OR RETURNED FOR CASH REFUND		TAXES		TAXES	
CHARGE RECORD		TAXES		TAXES	
953845		TAXES		TAXES	
REFERENCE NUMBER		TAXES		TAXES	
TOTAL AMOUNT		TAXES		TAXES	

A Charter New York Bank

580A IRVING TRUST COMP

NEW YORK

MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y

10021

USA 335-475
(ED. 4-23-71)

DEFENDANT

EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

B

617

CHECKS PAID

94.35	200.00	
3.24	7.21	35.51
35.70	635.00	
10.00	10.25	80.00
980.00		
6.00	10.00	20.00
20.50	100.31	120.00
120.39		
30.96	141.36	163.22
180.00	200.00	
27.29	170.00	
54.00	100.00	
4.14		
100.00		
100.00	169.21	170.00
1,455.77		
84.53	4,050.00	
35.00	350.00	445.92
18.94	100.00	
23.34	243.81	
42.74	100.00	170.00
170.00		
10.00	60.21	100.00
100.00	353.05	447.06
6.00	9.75	90.10
34.94	100.00	693.36
36.25		
7.50	46.68	56.72
980.00		
45.48	48.44	170.00

14,512.00

01-11-72

01-12-72

01-13-72

01-14-72

01-17-72

01-19-72

01-20-72

01-21-72

01-24-72

01-25-72

01-26-72

01-27-72

01-28-72

02-01-72

02-02-72

02-03-72

02-04-72

02-07-72

02-08-72

9,657.01

BALANCE

9,612.65

8,896.00

7,815.75

7,418.55

6,703.01

21,017.72

20,863.72

20,859.55

20,759.55

18,864.60

14,730.07

13,899.15

13,780.21

13,513.06

13,029.32

11,959.00

11,353.15

11,024.85

10,988.60

9,897.70

9,633.75

SYMBOLS

CM - CREDIT MEMO C - CORRECTION
DM - DEBIT MEMO OD - OVERDRAFT
SC - SERVICE CHARGE LS - LIST POSTED
RI - RETURNED ITEM

TOTAL NUMBER OF DEBITS

66

LAST AMOUNT IN THIS COLUMN IS

BALANCE AS OF 02-08-72

PLEASE EXAMINE PROMPTLY AND NOTIFY US OF ANY ERROR FOUND. IF NONE IS REPORTED WITHIN 15 DAYS, WE SHALL CONSIDER THE ACCOUNT CORRECT.

A FORM TO HELP IN RECONCILING YOUR ACCOUNT IS ON THE BACK OF THIS STATEMENT

A Charter New York Bank

58GA IRVING TRUST COMPANY

NEW YORK

MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y

10021

ACCOUNT NUMBER 16-061 617

PAGE NUMBER 1

CHECKS PAID			DEPOSITS	LAST STATEMENT	DATE	BALANCE
94.35	200.00		250.00	01-06-72		9,657.01
3.24	7.21	35.51		01-07-72		9,612.65
35.70	635.00			01-10-72		8,896.00
10.00	10.25	80.00		01-11-72		7,815.75
980.00				01-12-72		7,418.55
6.00	10.00	20.00		01-13-72		6,703.01
20.50	100.31	120.00		01-14-72		21,017.72
120.39				01-17-72		20,863.72
30.96	141.36	163.22		01-19-72		20,859.58
180.00	200.00		14,512.00	01-20-72		20,759.58
27.29	170.00			01-21-72		18,864.60
54.00	100.00			01-24-72		14,730.07
4.14				01-25-72		13,899.15
100.00				01-26-72		13,780.21
100.00	169.21	170.00		01-27-72		13,513.09
1,455.77				01-28-72		13,029.32
84.53	4,050.00			02-01-72		11,959.00
35.00	250.00	445.92		02-02-72		11,853.15
18.94	100.00			02-03-72		11,024.85
23.34	243.81			02-04-72		10,988.60
43.74	100.00	170.00		02-07-72		9,897.70
170.00				02-08-72		9,633.78
10.00	60.21	100.00				
100.00	353.05	447.06				
6.00	9.75	90.10				
34.94	100.00	693.36				
36.25						
7.50	46.68	56.72				
980.00						
45.48	48.44	170.00				

SYMBOLS
CM - CREDIT MEMO C - CORRECTION
DM - DEBIT MEMO OD - OVERDRAFT
SC - SERVICE CHARGE LS - LIST POSTED
RI - RETURNED ITEM

TOTAL NUMBER OF DEBITS

66

LAST AMOUNT IN THIS COLUMN IS
BALANCE AS OF 02-08-72

PLEASE EXAMINE PROMPTLY AND NOTIFY US OF ANY ERROR FOUND. IF NONE IS REPORTED WITHIN 15 DAYS, WE SHALL CONSIDER THE ACCOUNT CORRECT

A FORM TO HELP IN RECONCILING YOUR ACCOUNT IS ON THE BACK OF THIS STATEMENT

MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y

10021

ACCOUNT NUMBER 16-061 617

PAGE NUMBER 1

LAST STATEMENT 02-08-72 9,623.78

CHECKS PAID

DEPOSITS

DATE

BALANCE

17.71	70.00	235.47
120.00	200.00	400.00
100.00	175.00	425.00
34.00	95.80	150.00
100.00	175.00	250.00
400.00		
100.00	100.00	100.00
100.00	175.00	
139.50		
100.00		
12.00	39.94	50.00
100.00	175.00	
100.00		
12.50	18.40	52.97
24.26	32.10	
100.00	100.00	
90.10	175.00	
9.75	37.68	100.00
6.00	81.52	150.91
10.00	64.80	

9,009.79

02-09-72	9,310.60
02-10-72	8,590.60
02-11-72	7,890.60
02-14-72	7,610.80
02-15-72	6,685.80
02-16-72	15,695.59
02-17-72	15,395.59
02-22-72	15,120.59
02-23-72	14,981.09
02-24-72	14,881.09
02-25-72	14,504.15
02-28-72	14,404.15
02-29-72	14,320.28
03-01-72	14,263.82
03-02-72	14,063.82
03-03-72	13,798.72
03-06-72	13,651.29
03-07-72	13,412.86
03-08-72	13,328.06

SYMBOLS

CM - CREDIT MEMO	C - CORRECTION
DM - DEBIT MEMO	OD - OVERDRAFT
SC - SERVICE CHARGE	LS - LIST POSTED
RI - RETURNED ITEM	

TOTAL NUMBER OF DEBITS 46

LAST AMOUNT IN THIS COLUMN IS

BALANCE AS OF 03-08-72

PLEASE EXAMINE PROMPTLY AND NOTIFY US OF ANY EXCEPTIONS FOUND. IF NONE IS REPORTED WITHIN 15 DAYS, WE SHALL CONSIDER THE ACCOUNT CORRECT.

A FORM TO HELP IN RECONCILING YOUR ACCOUNT IS ON THE BACK OF THIS STATEMENT

BEST COPY AVAILABLE

IRVING TRUST COMPANY
NEW YORK
A Charter New York Bank

588A

--- MR HARVEY S MEYERS
--- 150 EAST 65TH STREET
--- NEW YORK N Y 10021

STATEMENT OF
ACCOUNT NUMBER
16-061617
CLOSING DATE 04/07/72 ITEM 4

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
13,338.06	14,689.48	15,844.32	.00	12,183.22
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
			03-08	13,338.06
21.40	37.45			
90.54			03-09	13,188.67
100.00	185.00		03-10	12,903.67
88.96	120.00		03-13	12,694.71
161.25			03-14	12,533.46
525.00			03-15	12,008.46
195.00		14,683.48	03-16	26,496.94
100.00	350.00		03-17	26,046.94
48.15	100.00		03-20	25,898.79
15.00	100.00			
220.00	10,000.00		03-21	15,563.79
15.00	100.00		03-23	15,448.79
25.42	110.00		03-24	15,313.37
100.00	150.00			
249.00			03-27	14,814.37
34.47	107.38		03-28	14,672.52
4.00			03-30	14,668.52
100.00			03-31	14,568.52
10.25	100.00			
155.00	200.00		04-03	14,103.27
50.00	100.00			
103.39	200.00			
(CONTINUED NEXT PAGE)				

AD = LOAN ADVANCE
BV = BACK VALUE
C = CORRECTION

CM = CREDIT MEMO
DM = DEBIT MEMO
IP = INSTALMENT LOAN PAYMENT

SYMBOLS

LS = LIST POSTED
OD = OVERDRAFT
PY = PAYMENT TO LOAN

RI = RETURN ITEM
SC = SERVICE CHARGE

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE		(+) DEBITS		(+)	(=)	
	(-) PRINCPL		(-) CREDITS				
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=)

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS WE SHALL CONSIDER THIS STATEMENT CORRECT.

IRVING TRUST COMPANY
NEW YORK
A Charter New York Bank

583A

--- MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y 10021

--- STATEMENT OF
ACCOUNT NUMBER
16-061517
CLOSING DATE 04/07/72 ITEMS 47

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE (CONTINUED)	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
200.00	311.14			
434.60			04-04	12,704.14
6.00	8.56			
90.10	100.00		04-05	12,499.48
46.34	59.00	6.00 RI		
195.00			04-06	12,205.14
21.92			04-07	12,183.22

AD = LOAN ADVANCE	CM = CREDIT MEMO	SYMBOLS		LS = LIST POSTED	RI = RETURN ITEM
BV = BACK VALUE	DM = DEBIT MEMO			OD = OVERDRAFT	SC = SERVICE CHARGE
C = CORRECTION	IP = INSTALMENT LOAN PAYMENT			PY = PAYMENT TO LOAN	

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE	(-) PRINCPL	(+) DEBITS	(-) CREDITS	(+)	(=)	.00
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=) .00

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IRVING TRUST COMPANY NEW YORK

A Charter New York Bank

584A

MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y 10021

STATEMENT OF
ACCOUNT NUMBER
16-061617
CLOSING DATE 05/08/72 ITEMS 46

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
12,183.22	21,111.38	26,252.16	.00	7,042.44
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
			04-07	12,183.22
45.00	100.00		04-10	12,038.22
114.70	120.00			
167.55			04-12	11,635.97
325.48			04-13	11,310.49
100.00	185.00			
216.00	1,154.00	19,126.25	04-14	28,781.74
5.00	50.93		04-17	28,725.91
		249.00	04-18	28,974.91
25.00	25.00			
100.00	10,500.00		04-19	18,324.91
35.03	100.00			
1,507.07			04-20	16,682.81
77.58	100.00			
185.00	715.04			
980.00	980.00		04-21	13,645.19
39.37			04-24	13,605.82
100.00	4,190.00	1,736.13	04-25	11,051.95
800.00			04-26	10,251.95
636.00			04-27	9,615.95
175.00			04-28	9,440.95
10.00	70.62			
167.36			05-01	9,192.97

(CONTINUED NEXT PAGE)

AD = LOAN ADVANCE
BV = BACK VALUE
C = CORRECTION

CM = CREDIT MEMO
DM = DEBIT MEMO
IP = INSTALMENT LOAN PAYMENT

SYMBOLS

LS = LIST POSTED
OD = OVERDRAFT
PY = PAYMENT TO LOAN

RI = RETURN ITEM
SC = SERVICE CHARGE

CHARTER CHECK / EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)	ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE	(+) DEBITS	(-) CREDITS	(+)	(=)	
	(-) PRINCIPAL					
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES
				(+)	(+)	(+)
						MINIMUM PAYMENT DUE *
						(=)

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS, WE SHALL CONSIDER THIS STATEMENT CORRECT.

IRVING TRUST COMPANY
New York
A Charter New York Bank

585A

--- MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y 10021

STATEMENT OF
ACCOUNT NUMBER
16-061617
CLOSING DATE 05/08/72 ITEMS 46

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
(CONTINUED)				
CHECKS & OTHER DEBITS	DEPOSITS & OTHER CREDITS	DATE	BALANCE	
20.00	22.08			
118.54	125.00	05-02	8,907.35	
90.10	228.45	05-03	8,588.80	
100.00	175.00			
980.00		05-05	7,333.80	
37.65	100.00			
153.71		05-08	7,042.44	
SYMBOLS AD = LOAN ADVANCE CM = CREDIT MEMO LS = LIST POSTED RI = RETURN ITEM BV = BACK VALUE DM = DEBIT MEMO OD = OVERDRAFT SC = SERVICE CHARGE C = CORRECTION IP = INSTALLMENT LOAN PAYMENT PY = PAYMENT TO LOAN				

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

MONTHLY STATEMENT OF ACCOUNT							
PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE		(+) DEBITS		(+)	(=)	
	(-) PRINCPL		(-) CREDITS				.00
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=)
							.00

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IRVING TRUST COMPANY
NEW YORK
A Charter New York Bank

589A

STATEMENT OF
ACCOUNT NUMBER
16-061617

--- MR HARVEY S MEYERS
--- 160 EAST 65TH STREET
--- NEW YORK N Y 10021

--- CLOSING DATE 06/08/72
--- ITEM 47

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
7,042.44	15,257.59	14,492.40	.00	7,807.63
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
			05-08	7,042.44
27.50	70.60			
78.11	120.00		05-09	6,746.23
5.00	121.52		05-10	6,619.71
10.00	12.00			
100.00			05-11	6,497.71
25.00	36.15			
185.00			05-12	6,251.56
42.80	304.95		05-15	5,903.81
		15,257.59	05-16	21,161.40
			05-18	21,061.40
100.00				
90.95	130.00		05-19	20,225.20
615.25				
95.00	103.89			
500.00			05-23	19,526.31
19.72			05-24	19,506.59
100.00	100.00			
185.00			05-26	19,121.59
10.00	64.41			
100.00	5,529.00		05-30	13,418.18
100.00			05-31	13,318.18
125.00			06-01	13,193.18
29.96	131.90			
(CONTINUED NEXT PAGE)				
AD = LOAN ADVANCE DV = DAK VALUE C = CORRECTION CM = CREDIT MEMO DM = DEBIT MEMO IP = INSTALMENT LOAN PAYMENT SYMBOLS LS = LIST POSTED OD = OVERDRAFT PY = PAYMENT TO LOAN RI = RETURN ITEM SC = SERVICE CHARGE				

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE		(+) DEBITS		(+)	(=)	
	(-) PRINCPL		(-) CREDITS				
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=)

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IRVING TRUST COMPANY
New York
A Charter New York Bank

MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y 10021

587A

STATEMENT OF
ACCOUNT NUMBER
16-061617

CLOSING DATE ITEMS
06/08/72 47

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE (CONTINUED)	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
159.00	169.00			
200.00			06-02	12,503.32
165.00	405.00		06-05	11,933.32
90.10	138.06		06-06	11,705.16
29.55			06-07	11,675.61
10.00	32.87			
46.61	522.50			
980.00	2,276.00		06-08	7,807.63

AD = LOAN ADVANCE CM = CREDIT MEMO LS = LIST POSTED RI = RETURN ITEM
BV = BACK VALUE DIA = DEBIT MEMO OD = OVERDRAFT SC = SERVICE CHARGE
C = CORRECTION IP = INSTALMENT LOAN PAYMENT PY = PAYMENT TO LOAN

CHARTER CHECK / EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)	ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE (-) PRINCL	(+) DEBITS (-) CREDITS		(+)	(=)	.00
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE (+)	PAST DUE AMOUNT (+)	LATE CHARGES (+)
						MINIMUM PAYMENT DUE * (=)
						.00

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS, WE SHALL CONSIDER THIS STATEMENT CORRECT.

IRVING TRUST COMPANY
New York
A Charter New York Bank

589A

--- MR HARVEY S MEYERS
160 EAST 65TH STREET
--- NEW YORK N Y 10021

STATEMENT OF
ACCOUNT NUMBER
--- 16-061617
--- CLOSING DATE 07/07/72
ITEMS 46

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
7,807.63	12,698.20	13,651.83	.00	6,854.00
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
			06-08	7,807.63
36.63	75.00			
87.99	100.00			
120.00	144.45			
150.00			06-09	7,093.56
17.50	218.31		06-12	6,857.75
15.00			06-13	6,842.75
3.00			06-14	6,839.75
6.00			06-15	6,833.75
44.94	50.00	12,698.20	06-16	19,437.01
100.00	185.00		06-19	19,152.01
84.00	6,500.00		06-20	12,568.01
39.09	62.50			
214.21			06-21	12,252.21
78.97	100.00		06-22	12,073.24
5.00	45.00			
100.00	144.88		06-23	11,778.36
100.00			06-26	11,678.36
65.00	100.00		06-27	11,513.36
34.85	100.00			
190.27			06-28	11,188.24
34.24			06-29	11,154.00
10.50	60.00			
(CONTINUED NEXT PAGE)				
AD = LOAN ADVANCE BV = BACK VALUE C = CORRECTION CM = CREDIT MEMO DM = DEBIT MEMO IP = INSTALMENT LOAN PAYMENT SYMBOLS LS = LIST POSTED OD = OVERDRAFT PY = PAYMENT TO LOAN RI = RETURN ITEM SC = SERVICE CHARGE				

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)	ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE	(+) DEBITS	(-) CREDITS	(+)	(=)	
	(-) PRINCPL					
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES
				(+)	(+)	(+)
						(=)

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS WE SHALL CONSIDER THIS STATEMENT CORRECT.

IRVING TRUST COMPANY
NEW YORK
 A Charter New York Bank

580A

STATEMENT OF
 ACCOUNT NUMBER
16-061617

--- MR HARVEY S MEYERS
 160 EAST 65TH STREET
 NEW YORK N Y 10021

CLOSING DATE ITEMS
07/07/72 46

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE (CONTINUED)	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
93.30	100.00			
125.00			07-03	10,765.20
87.41	237.00		07-05	10,440.79
80.00	100.00			
980.00			07-06	9,280.79
175.00	2,251.79		07-07	6,854.00

AD = LOAN ADVANCE	CM = CREDIT MEMO	LS = LIST POSTED	RI = RETURN ITEM
BV = BACK VALUE	DM = DEBIT MEMO	OD = OVERDRAFT	SC = SERVICE CHARGE
C = CORRECTION	IP = INSTALMENT LOAN PAYMENT	PY = PAYMENT TO LOAN	

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE	(-) PRINCPL	(+) DEBITS	(-) CREDITS	(+)	(=)	.00
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=) .00

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS WE SHALL CONSIDER THIS STATEMENT CORRECT.

IRVING TRUST COMPANY
NEW YORK
A Charter New York Bank

590A

STATEMENT OF
ACCOUNT NUMBER
16-061617

CLOSING DATE 08/08/72 ITEMS 40

MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y 10021

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
6,854.00	12,693.83	13,144.97	.00	6,402.86
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
			07-07	6,854.00
11.00	38.37			
100.00	234.10		07-10	6,470.53
60.00	77.59			
134.66	153.18		07-11	6,045.10
6.00	34.67			
120.00			07-12	5,884.43
70.00	389.00		07-13	5,425.43
186.54		12,693.83	07-14	17,932.72
65.00	278.44		07-17	17,589.28
616.90			07-19	16,972.38
70.00	100.00		07-20	16,802.38
27.69	100.00		07-24	16,674.69
600.00	5,529.00		07-25	10,545.69
12.84	100.00			
1,622.45			07-26	8,810.40
161.67			07-27	8,648.73
95.99			07-28	8,552.74
125.00	301.72		08-02	8,126.02
10.00	50.00			
100.00			08-03	7,966.02
23.61			08-04	7,942.41
100.00	150.00			
(CONTINUED NEXT PAGE)				
AD = LOAN ADVANCE CM = CREDIT MEMO LS = LIST POSTED RI = RETURN ITEM BV = BACK VALUE DM = DEBIT MEMO OD = OVERDRAFT SC = SERVICE CHARGE C = CORRECTION IP = INSTALMENT LOAN PAYMENT PY = PAYMENT TO LOAN				

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)	ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE	(+) DEBITS	(-) CREDITS	(+)	(=)	
	(-) PRINCPL					
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES
				(+)	(+)	(+)
						(=)
						MINIMUM PAYMENT DUE *

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS WE SHALL CONSIDER THIS STATEMENT CORRECT.

IRVING TRUST COMPANY
New York
A Charter New York Bank

591A

STATEMENT OF
ACCOUNT NUMBER
16-061617

MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y 10021

CLOSING DATE 08/08/72 ITEMS 40

PERSONAL CHECKING ACCOUNT STATEMENT

BEGIN (CL. ED)	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
CHECKS & OTHER DEBITS	DEPOSITS & OTHER CREDITS	DATE	BALANCE	
980.00		08-07	6,712.41	
8.11	127.05			
174.39		08-08	6,402.86	
SYMBOLS AD = LOAN ADVANCE CM = CREDIT MEMO LS = LIST POSTED RI = RETURN ITEM BV = BACK VALUE DM = DEBIT MEMO OD = OVERDRAFT SC = SERVICE CHARGE C = CORRECTION IP = INSTALMENT LOAN PAYMENT PY = PAYMENT TO LOAN				

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

CHARTER CHECK / EXECUTIVE CREDIT SUMMARY							
PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE		(+) DEBITS (-) CREDITS		(+)	(=)	.00
	(-) PRINCPL						
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE =
				(+)	(+)	(+)	(=) .00

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS WE SHALL CONSIDER THIS STATEMENT CORRECT.

IRVING TRUST COMPANY
New York
A Charter New York Bank

590A

STATEMENT OF
ACCOUNT NUMBER

16-061617

CLOSING DATE ITEMS
09/08/72 37

MR HARVEY S MEYERS
160 EAST 65TH STREET
NEW YORK N Y 10021

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
6,402.86	12,201.58	11,710.90	.00	6,893.54
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
			08-08	6,402.86
120.00	651.50		08-09	5,631.36
90.10	174.85		08-10	5,366.41
100.00	201.12		08-11	5,065.29
		12,201.58	08-16	17,266.87
6.00	100.00			
100.00			08-18	17,060.87
25.95	300.00			
790.00			08-21	15,944.92
100.00			08-23	15,844.92
100.00	5,529.00		08-28	10,215.92
100.00	107.52		08-29	10,008.40
34.49			08-30	9,973.91
10.00	100.00			
125.00	185.00		09-01	9,553.91
100.00			09-05	9,453.91
3.34	6.00			
35.00	36.00		09-06	9,373.57
80.43	90.10			
980.00	1,044.50		09-07	7,178.54
100.00	185.00		09-08	6,893.54
SYMBOLS AD = LOAN ADVANCE BV = BACK VALUE C = CORRECTION CM = CREDIT MEMO DM = DEBIT MEMO IP = INSTALMENT LOAN PAYMENT LS = LIST POSTED OD = OVERDRAFT PY = PAYMENT TO LOAN RI = RETURN ITEM SC = SERVICE CHARGE				

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE		(+) DEBITS		(+)	(=)	.00
	(-) PRINCPL		(-) CREDITS				
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=)
							.00

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IRVING TRUST COMPANY
NEW YORK
A Charter New York Bank

593A

HARVEY S MEYERS
MARIA MEYERS
160 EAST 65 STREET
NEW YORK NEW YORK 10021

STATEMENT OF
ACCOUNT NUMBER
16-061617

CLOSING DATE 10/06/72 ITEMS 34

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
6,893.54	22,582.44	17,086.55	.00	12,389.43
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
			09-08	6,893.54
23.61	100.00			
117.00			09-11	6,652.93
120.00	148.14		09-12	6,384.79
175.00	200.00			
500.00			09-14	5,509.79
100.00		14,332.44	09-15	19,742.23
150.00		7,000.00	09-18	26,592.23
50.00	716.04		09-20	25,826.19
150.00			09-25	25,676.19
10.00	120.00			
125.00			09-26	25,421.19
29.66	50.00			
66.14	10,000.00		09-27	15,275.39
25.00	25.66			
27.96	120.00		09-29	15,076.77
100.00	100.00	250.00		
2,276.00			10-02	12,850.77
10.50	38.52			
125.00			10-03	12,676.75
90.10	768.13		10-04	11,818.52
214.09			10-05	11,604.43
215.00		1,000.00	10-06	12,389.43

AD = LOAN ADVANCE
BV = BACK VALUE
C = CORRECTION

CM = CREDIT MEMO
DM = DEBIT MEMO
IP = INSTALMENT LOAN PAYMENT

SYMBOLS
LS = LIST POSTED
OD = OVERDRAFT
PY = PAYMENT TO LOAN

RI = RETURN ITEM
SC = SERVICE CHARGE

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)	ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE	(+) DEBITS	(-) CREDITS	(+)	(=)	.00
	(-) PRINCPL					
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES
				(+)	(+)	(+)
						MINIMUM PAYMENT DUE *
						.00

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IRVING TRUST COMPANY
New York
A Charter New York Bank

534A

--- HARVEY S MEYERS
--- MARIA MEYERS
160 EAST 65 STREET
NEW YORK NEW YORK 10021

STATEMENT OF
ACCOUNT NUMBER
--- 16-061617
CLOSING DATE 11/08/72
ITEMS 4

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
12,389.43	5,763.74	12,404.86	.00	5,748.31
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
			10-06	12,389.43
14.85	28.15			
37.46	111.57			
1,050.00			10-10	11,147.40
6.00	34.89			
200.14	302.77		10-11	10,603.60
120.00			10-12	10,483.60
37.50	180.00	5,000.00	10-13	15,266.10
80.25			10-16	15,185.85
5,070.00DM			10-17	10,115.85
31.57	190.00		10-24	9,894.28
100.00		150.00	10-25	9,944.28
200.00			10-26	9,744.28
150.00	180.00		10-27	9,414.28
55.24	100.00			
100.00			10-30	9,159.04
18.62	125.00			
150.00	150.00			
166.41	1,629.35		10-31	6,919.66
10.00	28.56		11-01	6,881.10
90.10			11-02	6,791.00
31.48	180.00		11-03	6,579.52
29.40	37.45	613.74		
(CONTINUED NEXT PAGE)				
AD = LOAN ADVANCE BV = BACK VALUE C = CORRECTION CM = CREDIT MEMO DM = DEBIT MEMO IP = INSTALMENT LOAN PAYMENT SYMBOLS LS = LIST POSTED OD = OVERDRAFT PY = PAYMENT TO LOAN RI = RETURN ITEM SC = SERVICE CHARGE				

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE	(-) PRINCPL	(+) DEBITS	(-) CREDITS	(+)	(=)	
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
			(+)	(+)	(+)	(+)	(=)

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IRVING TRUST COMPANY
NEW YORK
 A Charter New York Bank

595A

--- HARVEY S MEYERS
 MARIA MEYERS
 160 EAST 65 STREET
 NEW YORK NEW YORK 10021

--- STATEMENT OF
 ACCOUNT NUMBER
 16-061617
 CLOSING DATE ITEMS
 11/08/72 41

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE (CONTINUED)	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
100.00			11-06	7,026.41
33.97	70.00			
124.13	1,050.00		11-08	5,748.31
SYMBOLS AD = LOAN ADVANCE CM = CREDIT MEMO LS = LIST POSTED RI = RETURN ITEM BV = BACK VALUE DM = DEBIT MEMO OD = OVERDRAFT SC = SERVICE CHARGE C = CORRECTION IP = INSTALMENT LOAN PAYMENT PY = PAYMENT TO LOAN				

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE		(+) DEBITS		(+)	(=)	.00
	(-) PRINCPL		(-) CREDITS				
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=)
							.00

3187/00 (9-71)

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS, WE SHALL CONSIDER THIS STATEMENT CORRECT.

IRVING TRUST COMPANY
NEW YORK
A Charter New York Bank

556A

HARVEY S MEYERS
MARIA MEYERS
160 EAST 65 STREET
NEW YORK NEW YORK 10021

STATEMENT OF
ACCOUNT NUMBER
16-061617
CLOSING DATE
12/08/72

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
5,748.31	10,117.18	9,523.20	.00	7,342.29
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
			11-08	5,748.31
5.00	56.01			
120.00			11-09	5,567.30
69.00	161.81			
180.00			11-10	5,156.49
21.40	100.00	500.00	11-13	5,535.09
150.00			11-14	5,385.09
100.00		9,617.18	11-16	14,902.27
180.00			11-17	14,722.27
357.64			11-20	14,364.63
25.68	500.00		11-21	13,838.95
82.93	100.00		11-22	13,656.02
30.00	180.00			
275.43	1,560.12		11-24	11,610.47
6.00	45.60			
100.00			11-27	11,458.87
25.00			11-28	11,433.87
30.00	100.00			
301.25			11-29	11,002.62
35.80	50.23			
64.20			11-30	10,852.39
96.30	125.00		12-01	10,631.39
10.50	100.00			
(CONTINUED NEXT PAGE)				
AD = LOAN ADVANCE BV = BACK VALUE C = CORRECTION CM = CREDIT MEMO DM = DEBIT MEMO IP = INSTALMENT LOAN PAYMENT SYMBOLS LS = LIST POSTED OD = OVERDRAFT PY = PAYMENT TO LOAN RT = RETURN ITEM SC = SERVICE CHARGE				

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE	(-) PRINCIPAL	(+) DEBITS	(-) CREDITS	(+)	(=)	
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=)

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IRVING TRUST COMPANY
NEW YORK
A Charter New York Bank

597A

STATEMENT OF
ACCOUNT NUMBER
16-061617

CLOSING DATE 12/08/72 ITEM 5

HARVEY S MEYERS
MARIA MEYERS
160 EAST 65 STREET
NEW YORK NEW YORK 10021

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE (CONTINUED)	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
179.65	180.00		12-04	10,160.94
25.00	150.00			
241.93			12-05	9,744.01
25.00	25.00			
92.60	100.00			
100.00	150.00			
300.00			12-06	8,951.41
20.00	25.00			
25.00	25.00			
79.72	100.00			
1,050.00			12-07	7,626.69
4.40DM	25.00			
25.00	50.00			
180.00			12-08	7,342.29

AD = LOAN ADVANCE
BV = BACK VALUE
C = CORRECTION

CM = CREDIT MEMO
DM = DEBIT MEMO
IP = INSTALMENT LOAN PAYMENT

SYMBOLS

LS = LIST POSTED
OD = OVERDRAFT
PY = PAYMENT TO LOAN

RI = RETURN ITEM
SC = SERVICE CHARGE

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)	ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE	(+) DEBITS	(-) CREDITS	(+)	(=)	.00
	(-) PRINCL					
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES
				(+)	(+)	(+)
						(=)
						.00

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS WE SHALL CONSIDER THIS STATEMENT CORRECT.

BEST COPY AVAILABLE

IRVING TRUST COMPANY
New York
A Charter New York Bank

HARVEY S MEYERS
MARIA MEYERS
160 EAST 65 STREET
NEW YORK NEW YORK 10021

STATEMENT OF
ACCOUNT NUMBER
16-061617
CLOSING DATE
01/08/73

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
7,342.29	14,107.72	8,429.23	.00	13,020.78
CHECKS & OTHER DEBITS		DEPOSITS & OTHER CREDITS	DATE	BALANCE
25.00	25.00		12-08	7,342.29
45.00	47.54			
51.11	100.00			
120.00	148.54		12-11	6,780.10
75.00		400.00	12-12	7,105.10
6.00	20.00			
25.00			12-13	7,054.10
25.00	48.25			
84.23	100.00		12-14	6,796.62
25.00	260.00	13,421.45	12-15	19,933.07
100.00	400.00		12-18	19,433.07
10.00	15.00			
15.00	15.00			
20.00	110.71		12-19	19,247.36
15.00	20.00			
200.00	300.00		12-20	18,712.36
20.00	20.00			
25.00	45.00			
200.00	800.00			
1,068.49			12-21	16,533.87
62.50			12-22	16,471.37
10.00	10.00	286.27		

(CONTINUED NEXT PAGE)

AD = LOAN ADVANCE
BV = BACK VALUE
C = CORRECTION

CM = CREDIT MEMO
DM = DEBIT MEMO
IP = INSTALMENT LOAN PAYMENT

SYMBOLS

LS = LIST POSTED
OD = OVERDRAFT
PY = PAYMENT TO LOAN

RI = RETURN ITEM
SC = SERVICE CHARGE

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE		(+) DEBITS		(+)	(=)	
	(-) PRINCIPAL		(-) CREDITS				
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=)

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS WE SHALL CONSIDER THIS STATEMENT CORRECT.

IRVING TRUST COMPANY
New York
(22) A Charter New York Bank

5964

HARVEY S MEYERS
MARIA MEYERS
160 EAST 65 STREET
NEW YORK NEW YORK 10021

STATEMENT OF
ACCOUNT NUMBER
16-061617
CLOSING DATE ITEMS
01/08/73 60

PERSONAL CHECKING ACCOUNT STATEMENT

BEGINNING BALANCE (CONTINUED)	(+) TOTAL CREDITS	(-) TOTAL DEBITS	(-) SERVICE CHARGE	(=) NEW BALANCE
CHECKS & OTHER DEBITS	DEPOSITS & OTHER CREDITS	DATE	BALANCE	
10.00	100.00			
200.00		12-26	16,427.64	
125.00	563.00	12-27	15,739.64	
20.00	31.34	12-28	15,688.30	
10.00	25.00			
100.00	186.62	01-02	15,366.68	
1,000.00		01-03	14,366.68	
301.05	750.00	01-04	13,315.63	
10.00	10.00			
28.00	31.15			
65.70	150.00	01-08	13,020.78	

AD = LOAN ADVANCE
BY = BACK VALUE
C = CORRECTION

CM = CREDIT MEMO
DM = DEBIT MEMO
IP = INSTALMENT LOAN PAYMENT

SYMBOLS
LS = LIST POSTED
OD = OVERDRAFT
PY = PAYMENT TO LOAN

R1 = RETURN ITEM
SC = SERVICE CHARGE

CHARTER CHECK/EXECUTIVE CREDIT SUMMARY

CHAPTER CHECK/EXECUTIVE CREDIT SUMMARY							
PREVIOUS BALANCE (PRINCIPAL)	PAYMENTS TO LOAN (PY)		ADJUSTMENTS		LOAN ADVANCES (AD)	NEW BALANCE	AVAILABLE CREDIT
	FINANCE CHARGE		(+) DEBITS		(+)	(=)	.00
	(-) PRINCPL		(-) CREDITS				
AVERAGE DAILY BALANCE *	DAILY PERIODIC RATE %	ANNUAL PERCENTAGE RATE %	FINANCE CHARGE	CURRENT PRINCIPAL DUE	PAST DUE AMOUNT	LATE CHARGES	MINIMUM PAYMENT DUE *
				(+)	(+)	(+)	(=)
							.00

* NOTE: SEE REVERSE SIDE AND ANY ACCOMPANYING STATEMENTS FOR IMPORTANT INFORMATION. PLEASE EXAMINE AND RECONCILE THIS STATEMENT PROMPTLY. IF NO ERRORS ARE REPORTED TO US WITHIN 15 DAYS WE SHALL CONSIDER THIS STATEMENT CORRECT.

USA 33a - 475
(DD. 4-23-71)

DEFENDANT

EXHIBIT 
U. S. DIST. COURT
S. D. OF N. Y.



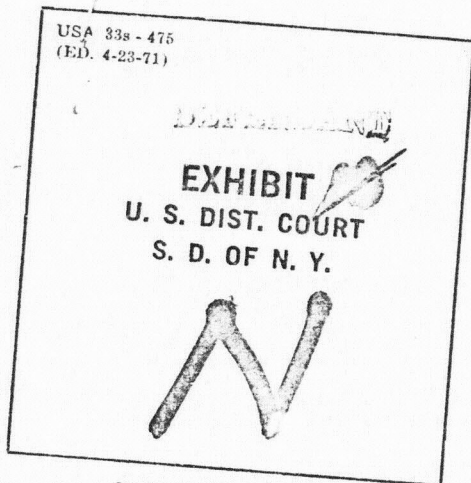
600A

FPI-MI-9-24-75-50M-4417

*

ACC22 9.4 13.7 0
KPT 2 9.7 7.0 0
HUT 1.6 4.5 0
JCT 7.4 4.4 7.5
LFR 5.0 0.1 0
LGARY 2.0 2.0
SAX 3.5 0.0 4.5
PMT 2.7 0.0 1.0
INT 5.8 4.7 1.5
SL 1.8 6.7 8.0
ASS 3.5 4.1 0
LST 2.3 2.1 0
SART 6.4 9.7 0
TIME 6.3 5.9 5
ACRS 1.5 6.9 0
SC 1.3 6.0
EXON 4.2 1.0
LN 4.5 0
CCR 1.0 2.0
KARK 7.4 0
ALCO 1.5 3.0
MAYP 7.2 0
CASE 7.3 3.5
FA 4.0 0.5
WPC 1.1 5.1 5
VNER 7.0 2.0
OSR 3.4 0.5
L.C. 5.7 6.0
10 0.2 3 0.5 0 +
10 0.2 3 0.5 0 *

601A



³⁶
Total Deposits
1972 *

206.27
15,421.45
400.00
9,617.18
500.00
613.74
150.00
1,000.00
250.00
12,201.58
12,693.83
12,698.20
15,257.59
1,736.13
249.00
14,603.43
9,009.79
14,512.00
19,126.25
14,332.44
7,000.00
5,000.00
250.00
164,988.93 *

*

*

USA 33a-475
(ED. 4-23-11)

DEFENDANT
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.



FPI MI-9-24-75-50M-4417

5 7,1 7 1.1 0 *

602A

1 6 5.4 0
1 2 0.1 0
2 5.1 0
1 7 8 5 0
6 5 8 9 0
2 3 9 3 0
1 3 2.9 0
4 2.8 0
7 7 0.8 5
1 6 7.1 0
7 5.6 0
9 4.0 0
1 0 3 3.3 5
2 8 7.6 0
6 1 4.1 0
6 1.3 0
6 3 6.2 5
2 2 4 2.4 5
8 7 0.6 0
1 1 3 2.2 0
7 5 4.8 0
9 3.7 0
1 1 2 8.3 0
1 7 1 6.8 0
3 6 0.1 0
1 3 7 5.4 5
2 2 8 2.5 5
2 8 3 1.3 5
1 9 5
1 7 1.7 0
2 6 9.4 0
1 2 1.1 0
6 1 7.5 5
1 3 1.0 0
2 3 5.8 0
3 9 6.9 5
6 9 4 0
4 0 2.8 0
3 5 3.3 5
2 7.4 0
4 2 0.5 5
3 5 5.0 5
2 9 8 6 0
1 3 4 6.7 5
1 8 9 1.3 5
6 7 9.1 0
9 1.8 0
4 4 3.0 0
1 6 2.4 0
4 0 6.4 0
2 8 8.8 5
2 9,3 6 3.7 0 *

USA 32s - 475
(ED. 4-23-71)

DEFENDANT
EXHIBIT
U. S. DIST. COURT
S. D. OF N. Y.

S

FPI:NI-9-24-75-50M-4417

603A

FOR 1971 - amended 15 061 617
1:02:10 00671: 15 061 617

PAY TO THE ORDER OF
Fifteen Thousand Seven hundred Sixty and 00/100 DOLLARS
\$14,760.00

SEP 15 1974 1-67
210

HARVEY S. MEYERS wife " " " " # 244-78-6317 2280
160 EAST 65TH ST. NEW YORK, N. Y. 10021
No.

IRVING TRUST COMPANY
A Charter New York Bank
MADISON AVENUE AT 38th STREET, NEW YORK, N.Y. 10018

FOR 1971 - amended 15 061 617
1:02:10 00671: 15 061 617

PART I.—Additional Exemptions (Complete only for other dependents claimed on line 10)

32 (a) NAME	(b) Relationship	(c) Months lived in your home. If born or died during year, write B or D	(d) Did dependent have income of \$675 or more?	(e) Amount YOU furnished for dependent's support. If 100% write ALL \$	(f) Amount furnished by OTHERS including dependent. \$

33 Total number of dependents listed above. Enter here and on line 10. ▶

PART II.—Income other than Wages, Dividends, and Interest

34 Business income or (loss) (attach Schedule C)	34	60,160
35 Net gain or (loss) from sale or exchange of capital assets (attach Schedule D)	35	
36 Net gain or (loss) from Supplemental Schedule of Gains and Losses (attach Form 4797)	36	
37 Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E)	37	< 276 >
38 Farm income or (loss) (attach Schedule F)	38	
39 Miscellaneous income: (a) Fully taxable pensions and annuities not reported on Schedule E—see instructions on page 7		
(b) 50% of capital gain distributions (not reported on Schedule D)		
(c) State income tax refunds (caution—see instructions on page 7)		
(d) Alimony		
(e) Other (state nature and source)		
(f) Total miscellaneous income (add lines 39(a), (b), (c), (d) and (e))	39	1272
40 Total (add lines 34, 35, 36, 37, 38, and 39). Enter here and on line 15 ▶	40	61,156

PART III.—Adjustments to Income

41 "Sick pay" if included in line 12 (attach Form 2440 or other required statement)	41	
42 Moving expense (attach Form 3903)	42	
43 Employee business expense (attach Form 2106 or other statement)	43	
44 Payments as a self-employed person to a retirement plan, etc. (attach Form 2950SE)	44	
45 Total adjustments (add lines 41, 42, 43, and 44). Enter here and on line 17 ▶	45	

PART IV.—Tax Computation (Do not use this part if you use Tax Tables 1-13 to find your tax.)

46 Adjusted gross income (from line 18)	46	63,543
47 (a) If you itemize deductions, enter total from Schedule A, line 32 and attach Schedule A	47	9,406
(b) If you do not itemize deductions, and line 46 is:		
(1) \$10,000 or more but less than \$11,538.43, enter 13% of line 46		
(2) \$11,538.43 or more, enter \$1,500.		
Note: deduction under (1) or (2) is limited to \$750 if married and filing separately.		
48 Subtract line 47 from line 46	48	54,137
49 Multiply total number of exemptions claimed on line 11, by \$675	49	2,700
50 Taxable income. Subtract line 49 from line 48 ▶	50	51,437
(Figure your tax on the amount on line 50 by using Tax Rate Schedule X, Y or Z, or if applicable, the alternative tax from Schedule D, income averaging from Schedule G, or maximum tax from Form 4726.) Enter tax on line 19.		

PART V.—Credits

51 Retirement income credit (attach Schedule R)	51	
52 Investment credit (attach Form 3468)	52	
53 Foreign tax credit (attach Form 1116)	53	
54 Total credits (add lines 51, 52, and 53). Enter here and on line 20 ▶	54	

PART VI.—Other Taxes

55 Self-employment tax (attach Schedule SE)	55	585
56 Tax from recomputing prior-year investment credit (attach Form 4255)	56	
57 Minimum tax (see instructions on page 8). Check here ☐ , if Form 4625 is attached	57	
58 Social security tax on unreported tip income (attach Form 4137)	58	
59 Uncollected employee social security tax on tips (from Forms W-2)	59	
60 Total (add lines 55, 56, 57, 58, and 59). Enter here and on line 22 ▶	60	585

PART VII.—Other Payments

61 Excess FICA tax withheld (two or more employers—see instructions on page 8)	61	
62 Credit for Federal tax on special fuels, nonhighway gasoline and lubricating oil (attach Form 4136)	62	
63 Regulated Investment Company Credit (attach Form 2439)	63	
64 Total (add lines 61, 62, and 63). Enter here and on line 26 ▶	64	

Schedules A&B—Itemized Deductions AND (Form 1040) Dividend and Interest Income

606A

1971

Department of the Treasury
Internal Revenue Service

► Attach to Form 1040.

Name(s) as shown on Form 1040

Your Social Security number

HARVEY S. AND MARIA C. MEYERS

144 28 4866

Schedule A—Itemized Deductions (Schedule B on back)

Medical and dental expenses (not compensated by insurance or otherwise) for medicine and drugs, doctors, dentists, nurses, hospital care, insurance premiums for medical care, etc.

Contributions. — Cash — including checks, money orders, etc. (Itemize — see instructions on page 10)

1 One half (but not more than \$150) of insurance premiums for medical care.

117.

2 Medicine and drugs.

463.

3 Enter 1% of line 18, Form 1040

635

4 Subtract line 3 from line 2.

- 0 -

5 Enter balance of insurance premiums

117.

6 Itemize other medical and dental.

DR. MORRISON S.

LEVBAR

396.

DR. EVANZ GANZ

20.

DR. GEORGE RICH

120.

DR. ARTHUR

CRACOVANER

350.

DR. J. M. DELGADO

30.

LENOX HILL HOSPITAL

378.

7 Total (add lines 4, 5, and 6)

1,512.

8 Enter 3% of line 18, Form 1040

1,906

9 Subtract line 8 from line 7. Enter difference (if less than zero, enter zero).

- 0 -

10 Total deductible medical and dental expenses (Add lines 1 and 9.)

117

Taxes.

11 Real estate

12 State and local gasoline (see gas tax tables)

50.

13 General sales (see sales tax tables)

858.

14 State and local income

6,215.

15 Personal property

16 Other

17 Total taxes (Add lines 11 through 16.)

7,123.

MISCELLANEOUS

ORGANIZED CHARITIES

125.

HEART FUND

5.

FEDERATION OF JEWISH

PHILANTHROPIES

120.

THE FLEMING FUND

50.

ANYARIO DE FAMILIAS

CUBANAS

100.

18 Total cash contributions

400.

19 Other than cash (see instructions on Page 10 for required statement)

20 Carryover from prior years

21 Total contributions (Add lines 18, 19, and 20.)

400.

Interest expense.

22 Home mortgage

23 Installment purchases

24 Other (Itemize)

25 Total interest expense (Add lines 22, 23, and 24.)

Miscellaneous deductions for child care, alimony, union dues, casualty losses, etc.

NET CASUALTY LOSS

1,200.

SEC STATEMENT 1

566.

26 Total miscellaneous deductions

1,766.

Summary of Itemized Deductions

27 Total deductible medical and dental expenses (from line 10)

117

28 Total taxes (from line 17)

7,123.

29 Total contributions (from line 21)

400.

30 Total interest expense (from line 25)

31 Total miscellaneous deductions (from line 26)

1,766.

32 TOTAL ITEMIZED DEDUCTIONS. (Add lines 27 through 31. Enter here and on Form 1040, line 47.)

9,406.

Schedules A & B (Form 1040)

Schedule B--Dividend and Interest Income

Name(s) as shown on Form 1040 (Do not enter name and social security number if shown on other side)

Your social security number

HARVEY S AND MARIA C

MEYERS

144 28 4866

Dividend Income

Note: If gross dividends (including capital gain distributions) and other distributions on stock are \$100 or less, do not complete this part. But enter gross dividends less the sum of capital gain distributions and non-taxable distributions, if any, on Form 1040, line 13a. (see note below)

1 Gross dividends (including capital gain distributions) and other distributions on stock. (List payers and amounts--write (H), (W), (J), for stock held by husband, wife, or jointly)

Interest Income

Note: If interest is \$100 or less, do not complete this part. But enter amount of interest received on Form 1040, line 14.

7 Interest includes earnings from savings and loan associations, mutual savings banks, cooperative banks, and credit unions as well as interest on bank deposits, bonds, tax refunds, etc. Interest also includes original issue discount on bonds and other evidences of indebtedness (see instructions on page 11). (List payers and amounts)

1- CHASE MANHATTAN

2,387.

2 Total of line 1.

3 Capital gain distributions (see instructions on page 11. Enter here and on Schedule D, line 7.) See note below.

4 Nontaxable distributions (see instructions on page 11)

5 Total (add lines 3 and 4).

6 Dividends before exclusion (subtract line 5 from line 2). Enter here and on Form 1040, line 13a.

8 Total interest income. Enter here and on Form 1040, line 14

2,387.

Note: If you received capital gain distributions and do not need Schedule D to report any other gains or losses or to compute the alternative tax, do not file that schedule. Instead, enter 50 percent of capital gain distributions on Form 1040, line 39(b).



4 *3 50-303 401EW 12-43 STATEMENT 1
SUPPLEMENTS TO SCHEDULE A

608A

ARVEY S
NEW YORK

AND MARIA C
NY

MEYERS
10021

144-28-4866

=====

ISCELLANEOUS DEDUCTIONS
PREPARATION OF TAX RETURNS
SAFE DEPOSIT BOX RENTAL
TOTAL TO SCHEDULE A

550.

16.

\$

566.

9 100-505 401EW 12-75 STATEMENT 2
XPLANATION OF EXPENSES
ARVEY S AND MARIA C MEYERS 606A 144-28-4866
EW YORK NY 10021
=====

XPLANATION OF EXPENSES

BUSINESS BAD DEBT-FUNDS LOANED FOR UNSUCCESSFUL CO 25,000.
TRANSACTION-BORROWER HAS LEFT UNITED STATES 5,000.
LEGAL FEES
TOTAL..... 30,000.

TOTAL EXPENSES 30,000.

BEST COPY AVAILABLE

4 100-303 401EW 12-43
NOTES AND COMPUTATIONS

STATEMENT 3

610A

ARVEY S
NEW YORK

AND MARIA C
NY

MEYERS
10021

144-28-4866

ASUALTY LOSS-

FAIR MARKET VALUE OF STEREO LOST
IN SHIPMENT TO PUERTO RICO

\$1300

LESS EXCLUSION

100

DEDUCTIBLE LOSS

\$1200

SCHEDULE C
(Form 1040)

Profit (or Loss) From Business or Profession
(Sole Proprietorship)

1971

Department of the Treasury
Internal Revenue Service

Partnerships, joint ventures, etc., must file on Form 1065.
Attach to Form 1040.

Name(s) as shown on Form 1040

Social security number

HARVEY S. & MARIA C. MEYERS

144-28-4866

A Principal business activity STOCK BROKER; product TRADING SERVICES
(See separate instructions) (For example: retail—hardware; wholesale—tobacco; services—legal; manufacturing—furniture; etc.)

B Business name HARVEY MEYERS **C** Employer Identification Number 144-28-4866

D Business address 160 E 65 ST. NEW YORK, NY 10021

E Indicate method of accounting: (1) ☒ cash; (2) ☐ accrual; (3) ☐ other. (ZIP code)

F Was there any substantial change in the manner of determining quantities, costs, or valuations between the opening and closing inventories?
☐ YES ☒ NO. If "Yes," attach explanation.

G Were you required to file Forms 1096 and 1099 or 1087 for the calendar year 1971? (See "Item G" in separate instructions for Schedule C.)
☐ YES ☒ NO. If "Yes," where were they filed? ▶

1	Gross receipts or gross sales \$.....	Less: Returns and allowances \$.....	\$ <u>119,113</u>
2	Inventory at beginning of year (if different from last year's closing inventory attach explanation)		
3	Merchandise purchased \$....., less cost of any items withdrawn from business for personal use \$.....		
4	Cost of labor (do not include salary paid to yourself)		
5	Material and supplies		
6	Other costs (explain in Schedule C-1)		
7	Total of lines 2 through 6		
8	Inventory at end of this year		
9	Cost of goods sold and/or operations (subtract line 8 from line 7)		
10	Gross profit (subtract line 9 from line 1)		<u>119,113</u>
OTHER BUSINESS DEDUCTIONS			
11	Depreciation (explain in Schedule C-2)		
12	Taxes on business and business property (explain in Schedule C-1)		
13	Rent on business property	<u>1,176</u>	
14	Repairs (explain in Schedule C-1)		
15	Salaries and wages not included on line 4 (exclude any paid to yourself)		
16	Insurance		
17	Legal and professional fees		
18	Commissions		
19	Amortization (attach statement)		
20	(a) Pension and profit-sharing plans (See Instructions).		
	(b) Employee benefit programs (See Instructions)		
21	Interest on business indebtedness		
22	Bad debts arising from sales or services		
23	Depletion		
24	Other business expenses (explain in Schedule C-1)	<u>57,777</u>	
25	Total of lines 11 through 24		<u>58,953</u>
26	Net profit (or loss) (subtract line 25 from line 10). Enter here and on line 34, Form 1040. ALSO enter on Schedule SE, Part I, line 1		<u>60,160</u>

SCHEDULE C-1. EXPLANATION OF LINES 6, 12, 14, AND 24

Line No.	Explanation	Amount	Line No.	Explanation	Amount
24	EMPLOYEE BUSINESS EXP	\$ 30,000	24	FLOOR WORK CLOTHING	\$ 150
"	AUTO EXPENSE	3,049	"	INTEREST ON NYSE SEAT	4,050
"	OFFICE SUPPLIES & EXP.	576	"	BUSINESS BAD DEBT	1,000
"	TELEPHONE	1,333	"	MEMBERSHIPS	159
"	ACCOUNTING	100	"	NYSE, NSE, NY MERCANTILE	
"	FLOOR EXPENSE	3,215	"	AND SIPC	5,202
"	NYSE LUNCHEON FEES	1,200			
"	XMAS GIFT NYSE EMPLOYEES	1,360			
"	TRAVEL & ENTERTAINMENT	6,229			
"	PROFESSIONAL PUBLICATIONS	182			

Schedules E&R—Supplemental Income Schedule AND Retirement Income Credit Computation

(Form 1040) Department of the Treasury Internal Revenue Service (From pensions and annuities, rents and royalties, partnerships, estates and trusts, etc.) Attach to Form 1040.

1971

Name(s) as shown on Form 1040 HARVEY S AND MARIA C MEYERS Your Social Security Number 144-28-4866

Fill out and attach a separate Part I for each pension or annuity. Enter combined total of taxable portions on line 5. **Part I** Pension and Annuity Income. • If pension or annuity is fully taxable for 1970, complete only lines 1, 2 and 5. • If not fully taxable, complete all lines.

1 Name of payer
2 If your employer contributed part of the cost, is your contribution recoverable (or has your contribution been recovered) tax-free within 3 years? ☐ Yes ☐ No.
If "Yes," show: Your contribution \$, Your contribution recovered in prior years \$
3 Amount received this year
4 Amount excludable
5 Taxable portion (subtract line 4 from line 3)

Part II Rent and Royalty Income (If you received rents from the operation of a farm but you did not materially participate in its operation, report rents in column (b). Note: If in crop shares, report in year reduced to money or its equivalent. See instructions for Part II on page 12.)

(a) Kind and location of property If residential, also write "R"	(b) Total amount of rents	(c) Total amount of royalties	(d) Depreciation (explain below) or depletion (at- tach computation)	(e) Other expenses (Repairs, etc.— explain below)
1 Totals				
2 Net income (or loss) from rents and royalties (column (b) plus column (c) less columns (d) and (e))				

Part III Income or Losses from Partnerships, Estates or Trusts, and Small Business Corporations

(a) Name and address	(c) Employer identification number	(d) Income or loss
KAUFMAN & BROAD		-276

1 Income (or loss) Total of column (d) TOTAL -276.
TOTAL OF PARTS I, II, AND III (Enter here and on Form 1040, line 37.) -276.

Explanation of Column (e), Part II

Item	Amount	Item	Amount

Schedule for Depreciation Claimed in Part II Above. Taxpayers using Revenue Procedures 62-21 and 65-13: Make no entry in column (b), enter the cost or other basis of assets held at end of year in column (c), and enter the accumulated depreciation at end of year in column (d). If you need more space, use Form 4562.

(a) Group and guideline class or description of property	(b) Date acquired	(c) Cost or other basis	(d) Depreciation allowed or allowable in prior years	(e) Method of computing depreciation	(f) Life or rate	(g) Depreciation for this year
1 Total additional first-year depreciation (do not include in items below)						
2 Totals						

Summary of Depreciation

	Straight line	Declining balance	Sum of the years'-digits	Units of production	Additional first-year (section 179)	Other (specify)	Total
1							
2 Other.							

SCHEDULE SE
(Form 1040)
Department of the Treasury
Internal Revenue Service

Computation of Social Security Self-Employment Tax

1971

- ▶ Each self-employed person must file a Schedule SE.
▶ Attach to Form 1040.

▶ If you had wages, including tips, of \$7,800 or more that were subject to social security taxes, do not fill in this page.
▶ If you had more than one business, combine profits and losses from all your businesses and farms on this Schedule SE.

Important.—The self-employment income reported below will be credited to your social security record and used in figuring social security benefits.

Name of self-employed person (as shown on social security card):

Social security number
of self-employed person

HARVEY S. MEYERS

14412814866

Business activities subject to self-employment tax (grocery store, restaurant, farm, etc.) ▶

Computation of Net Earnings from BUSINESS Self-Employment (other than farming)

- | | |
|--|---------------|
| 1 Net profit (or loss) shown in Schedule C (Form 1040), line 26. (Enter combined amount if more than one business.) | <u>60,160</u> |
| 2 Net income (or loss) from excluded services or sources included on line 1. Specify excluded services or sources | |
| 3 Net earnings (or loss) from business self-employment (Subtract line 2 from line 1, and enter here and on line 8(a), Part III below.) | <u>60,160</u> |

Computation of Net Earnings from FARM Self-Employment

A farmer may elect to compute net farm earnings using the **OPTIONAL METHOD** (line 6, below) **INSTEAD OF THE REGULAR METHOD** (line 5, below) if his gross profits are: (1) \$2,400 or less, or (2) more than \$2,400 and net profits are less than \$1,600. If your gross profits from farming are not more than \$2,400 and you elect to use the optional method, you need not complete lines 4 and 5.

Computation under Regular Method

- | | |
|--|--|
| 4 Net farm profit (or loss) from: | |
| (a) Schedule F, line 52 (cash method), or line 71 (accrual method) | |
| (b) Farm partnerships | |
| 5 Net earnings from self-employment from farming. Add lines 4(a) and (b) | |

Computation under Optional Method

- | | |
|---|--|
| 6 If gross profits from farming are: | |
| (a) Not more than \$2,400, enter two-thirds of the gross profits | |
| (b) More than \$2,400 and the net farm profit is less than \$1,600, enter \$1,600 | |

*Note.—Gross profits from farming are the total of the gross profits from Schedule F, line 28 (cash method), or line 69 (accrual method), plus the distributive share of gross profit from farm partnerships as explained in instructions for Schedule SE.

- 7 Enter here and on line 8(b), Part III, below, the amount on line 5 (or line 6, if you use the optional method)

Computation of Social Security Self-Employment Tax

- | | |
|---|-------------------|
| 8 Net earnings (or loss) from self-employment— | |
| (a) From business (other than farming) from line 3, Part I, above | <u>60,160</u> |
| (b) From farming (from line 7, Part II, above) | |
| (c) From partnerships, joint ventures, etc. (other than farming) | |
| (d) From service as a minister, member of a religious order, or a Christian Science practitioner. If you filed Form 4361, check here ☐ and enter zero on this line | |
| (e) From service with a foreign government or international organization | |
| (f) Other (director's fees, etc.). Specify | |
| 9 Total net earnings (or loss) from self-employment reported on line 8 | <u>60,160</u> |
| (If line 9 is less than \$400, you are not subject to self-employment tax. Do not fill in rest of page.) | |
| 10 The largest amount of combined wages and self-employment earnings subject to social security tax is. | <u>\$7,800 00</u> |
| 11 (a) Total "FICA" wages as indicated on Form W-2 | |
| (b) Unreported tips, if any, subject to FICA tax from Form 4137, line 9 | |
| (c) Total of lines 11(a) and 11(b) | <u>7800</u> |
| 12 Balance (subtract line 11(c) from line 10). | <u>7800</u> |
| 13 Self-employment income—line 9 or 12, whichever is smaller. | <u>585</u> |
| 14 If line 13 is \$7,800, enter \$585.00; if less, multiply the amount on line 13 by .075 | |
| 15 Railroad employee's and railroad employee representative's adjustment for hospital insurance benefits tax from Form 4469 | <u>585</u> |
| 16 Self-employment tax (subtract line 15 from line 14). Enter here and on Form 1040, line 55 | |

HARVEY S. MEYERS Social Sec # 144-28-4866 2279
160 EAST 65TH ST. NEW YORK, N. Y. 10021 WIFE # 264-70-6317 No.

PAY
TO THE
ORDER OF

Sept 15 1974 1-67
210
Internal Revenue Service \$ 32,754⁰⁰/₁₀₀

Thirty two thousand seven hundred fifty four ⁰⁰/₁₀₀ - DOLLARS



IRVING TRUST COMPANY
MADISON AVENUE AT 39th STREET, NEW YORK, N.Y. 10018
A Charter New York Bank

FOR 1972 Amended
16 061 617

DEFENDANT'S EXHIBIT T

615A

Please print or type

First name and initial (If joint return, use first names and middle initials of both) **HARVEY S & MARIA C.** Last name **MEYERS** Your social security number (Husband's, if joint return) **144 28 4116**

Present home address (Number and street, including apartment number, or rural route) **160 E 65 STREET APT 22C** Wife's number, if joint return **264 70 6315**

City, town or post office, State and ZIP code **NEW YORK, NY 10021** Occupation **PROFESSOR** Wife's occupation **HOUSEWIFE**

Filing Status—check only one:

1 ☐ Single

2 ☒ Married filing joint return (even if only one had income)

3 ☐ Married filing separately. If wife (husband) is also filing give her (his) social security number and first name here.

4 ☐ Unmarried Head of Household

5 ☐ Widow(er) with dependent child (Enter year of death of husband (wife) **19**)

Exemptions Regular / 65 or over / Blind Enter number of boxes checked

6 Yourself ☒ ☐ ☐ **2**

7 Wife (husband) ☒ ☐ ☐

8 First names of your dependent children who lived with you **ALEXANDRA, CHARITAL**

9 Number of other dependents (from line 32) **2**

10 Total exemptions claimed **4**

Income

11 Wages, salaries, tips, and other employee compensation. (Attach form W-2 to front. If unavailable, attach explanation) **11**

12a Dividends (see pages 6 and 13 or instr.) \$ **12b** Less exclusion \$ **Balance** **12c**

(If gross dividends and other distributions are over \$200, list in Part I of Schedule B.)

13 Interest income. [If \$200 or less, enter total without listing in Schedule B] **13** **3485**

14 Income other than wages, dividends, and interest (from line 45) **14** **130,204**

15 Total (add lines 11, 12c, 13 and 14) **15** **123,779**

16 Adjustments to income (such as "sick pay," moving expenses, etc. from line 50) **16**

17 Subtract line 16 from line 15 (adjusted gross income) **17** **123,779**

Caution: If you have unearned income and you could be claimed as a dependent on your parent's return, see boxed instruction on page 7, under the heading "Tax-Credits-Payments." Check this block ☐

If you do not itemize deductions and line 17 is under \$10,000, find tax in Tables and enter on line 18.

If you itemize deductions or line 17 is \$10,000 or more, go to line 51 to figure tax.

Tax, Payments and Credits

18 Tax, check if from: Tax Tables 1-12, Schedule D or Tax Rate Schedule X, Y, or Z Schedule G or ☒ Form 4726 **18** **47,103**

19 Total credits (from line 61) **19**

20 Income tax (subtract line 19 from line 18) **20** **47,103**

21 Other taxes (from line 67) **21** **105**

22 Total (add lines 20 and 21) **22** **47,208**

23 Total Federal income tax withheld (attach Forms W-2 or W-2P to front) **23**

24 1972 Estimated tax payments (include amount allowed as credit from 1971 return) **24** **20,177**

25 Amount paid with Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return **25**

26 Other payments (from line 71) **26** **3,187**

27 Total (add lines 23, 24, 25, and 26) **27** **17,990**

Bal. Due or Refund

28 If line 22 is larger than line 27, enter BALANCE DUE IRS Pay in full with return. Make check or money order payable to Internal Revenue Service **28** **\$ 32,754**

29 If line 27 is larger than line 22, enter amount OVERPAID **29**

30 Line 29 to be REFUNDED TO YOU **30**

31 Line 29 to be credited on 1973 estimated tax **31**

Foreign Accounts

Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution)? ☐ Yes ☒ No

If "Yes," attach Form 4633. (For definitions, see Form 4633.)

Note: Be sure to complete Revenue Sharing (lines 33 and 34) on next page.

Sign here

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which he has any knowledge.

Taxpayer's signature **Maria C. Meyers** Date **5/1/74** Preparer's signature (other than taxpayer) **Oppenheim, Appel, Dixon & Co.** Date **5/1/74**

One New York Plaza, N.Y., N.Y. 10004

Address (and ZIP Code) of preparer **135 W 21st St, New York, NY 10011**

Write soc. sec. no. on Check or Money Order. Attach here

* TAX **2566**

* interest to 9/1/74 **2566**

Other Dependents	(a) NAME	(b) Relationship	(c) Months lived in your home, if born or died during year, write B or D.	(d) Did dependent have income of \$750 or more?	(e) Amount YOU furnished for dependent's support. If 100% write ALL.	(f) Amount furnished by OTHERS including dependent.
					\$	\$

32 Total number of dependents listed in column (a). Enter here and on line 9 ▶

33 Print or type the location of your principal place of residence at end of year (not necessarily the same as your post office address).

(a) State	(b) County	(c) Locality. If you lived inside the boundaries of an incorporated city, town, etc., enter its name; if not, check here ☐	(d) Township (see instructions on page 8)
-----------	------------	---	---

34 Enter the number of persons included on line 10 who (1) are filing a return of their own; or, (2) did not live at your principal place of residence at the end of the year ▶

For IRS use only—Leave blank	
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PART I.—Income other than Wages, Dividends, and Interest

35 Business income (or loss) (attach Schedule C)	35	120,006
36 Net gain (or loss) from sale or exchange of capital assets (attach Schedule D)	36	
37 Net gain (or loss) from Supplemental Schedule of Gains and Losses (attach Form 4797)	37	
38 Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E)	38	268
39 Farm income (or loss) (attach Schedule F)	39	
40 Fully taxable pensions and annuities (not reported on Schedule E—see instructions on page 8)	40	
41 50% of capital gain distributions (not reported on Schedule D)	41	
42 State income tax refunds (caution—see instructions on page 8)	42	
43 Alimony	43	
44 Other (state nature and source)	44	
45 Total (add lines 35 through 44). Enter here and on line 14 ▶	45	120,274

PART II.—Adjustments to Income

46 "Sick pay" if included in income (attach Form 2440 or other required statement)	46	
47 Moving expense (attach Form 3903)	47	
48 Employee business expense (attach Form 2106 or other statement)	48	
49 Payments as a self-employed person to a retirement plan, etc. (see Form 4848)	49	
50 Total adjustments (add lines 46, 47, 48, and 49). Enter here and on line 16 ▶	50	

PART III.—Tax Computation (Do not use this part if you use Tax Tables 1–12 to find your tax.)

51 Adjusted gross income (from line 17)	51	123,779
52 (a) If you itemize deductions, enter total from Schedule A, line 40 and attach Schedule A } (b) If you do not itemize deductions, enter 15% of line 51, but do NOT enter more than \$2,000. (\$1,000 if line 3 is checked)	52	11,443
53 Subtract line 52 from line 51	53	112,336
54 Multiply total number of exemptions claimed on line 10, by \$750	54	3,000
55 Taxable income. Subtract line 54 from line 53	55	109,336

(Figure your tax on the amount on line 55 by using Tax Rate Schedule X, Y or Z, or if applicable, the alternative tax from Schedule D, income averaging from Schedule G, or maximum tax from Form 4726.) Enter tax on line 18.

PART IV.—Credits

56 Retirement income credit (attach Schedule R)	56	
57 Investment credit (attach Form 3468)	57	
58 Foreign tax credit (attach Form 1116)	58	
59 Credit for contributions to candidates for public office—see instructions on page 9	59	
60 Work Incentive Program credit (attach Form 4874)	60	
61 Total credits (add lines 56, 57, 58, 59, and 60). Enter here and on line 19 ▶	61	

PART V.—Other Taxes

62 Self-employment tax (attach Schedule SE)	62	675
63 Tax from recomputing prior-year investment credit (attach Form 4255)	63	
64 Minimum tax (see instructions on page 10). Check here ☐ , if Form 4625 is attached	64	
65 Social security tax on tip income not reported to employer (attach Form 4137)	65	
66 Uncollected employee social security tax on tips (from Forms W-2)	66	
67 Total (add lines 62, 63, 64, 65, and 66). Enter here and on line 21 ▶	67	675

PART VI.—Other Payments

68 Excess FICA tax withheld (two or more employers—see instructions on page 10)	68	
69 Credit for Federal tax on special fuels, nonhighway gasoline and lubricating oil (attach Form 4136)	69	
70 Credit from a Regulated Investment Company (attach Form 2439)	70	
71 Total (add lines 68, 69, and 70). Enter here and on line 26 ▶	71	

Schedules A&B—Itemized Deductions AND
(Form 1040)
Dividend and Interest Income
 Department of the Treasury
 Internal Revenue Service
 Attach to Form 1040.

616A

1972

Name(s) as shown on Form 1040

HARVEY S

AND MARIA C

MEYERS

Your social security number

144-28-4866

Schedule A—Itemized Deductions

Medical and dental expenses (not compensated by insurance or otherwise) for medicine and drugs, doctors, dentists, nurses, hospital care, insurance premiums for medical care, etc.

1 One half (but not more than \$150) of insurance premiums for medical care. (Be sure to include in line 10 below) . . .

117.

2 Medicine and drugs

1238

3 Enter 1% of line 17, Form 1040 . . .

4 Subtract line 3 from line 2. Enter difference (if less than zero, enter zero) . .

5 Enter balance of insurance premiums for medical care not entered on line 1 . .

117.

6 Itemize other medical and dental expenses. Include hearing aids, dentures, eyeglasses, transportation, etc.

Contributions.—Cash—including checks, money orders, etc.

SEE STATEMENT 1

330.

18 Total cash contributions

330.

19 Other than cash

20 Carryover from prior years

21 Total contributions (Add lines 18, 19, and 20. Enter here and on line 35, below.) ▶

330.

Interest expense.

22 Home mortgage

23 Installment purchases

24 Other (itemize) _____

25 Total interest expense

Casualty or theft loss(es)

26 Loss before adjustments

27 Insurance reimbursement

28 \$100 limitation

29 Add lines 27 and 28

30 Casualty or theft loss.

7 Total (add lines 4, 5, and 6)

117.

8 Enter 3% of line 17, Form 1040 . . .

3,713.

9 Subtract line 8 from line 7. Enter difference (if less than zero, enter zero) . .

10 Total deductible medical and dental expenses (Add lines 1 and 9. Enter here and on line 33, below.) ▶

117.

Taxes.

11 Real estate

12 State and local gasoline (see gas tax tables)

13 General sales (see sales tax tables) . .

14 State and local income

15 Personal property

16 Other SALES TAX MAJOR

PURCHASES

17 Total taxes (Add lines 11 through 16. Enter here and on line 34, below.) ▶

11,046.

31 Child and dependent care expenses from Form 2441.

Miscellaneous deductions for alimony, etc.

32 Total miscellaneous deductions

Summary of Itemized Deductions

33 Total deductible medical and dental expenses (from line 10)

117.

34 Total taxes (from line 17)

11,046.

35 Total contributions (from line 21)

330.

36 Total interest expense (from line 25)

37 Casualty and theft loss(es) (from line 30)

38 Child and dependent care expenses (from line 31)

39 Total miscellaneous deductions (from line 32)

40 TOTAL ITEMIZED DEDUCTIONS. (Add lines 33 through 39. Enter here and on Form 1040, line 52.) ▶

11,483.

Schedules A & B (Form 1040)

Schedule B—Dividend and Interest Income

Page 2

Name(s) as shown on Form 1040 (Do not enter name and social security number if shown on other side)

Your social security number

HARVEY S AND MARIA C

MEYERS

144-28-4866

Part I Dividend Income

Note: If gross dividends (including capital gain distributions) and other distributions on stock are \$200 or less, do not complete this part. But enter gross dividends less the sum of capital gain distributions and non-taxable distributions, if any, on Form 1040, line 12a (see note below).

1 Gross dividends (including capital gain distributions) and other distributions on stock. (List payers and amounts—write (H), (W), (J), for stock held by husband, wife, or jointly)

Part II Interest Income

Note: If interest is \$200 or less, do not complete this part. But enter amount of interest received on Form 1040, line 13.

7 Interest includes earnings from savings and loan associations, mutual savings banks, cooperative banks, and credit unions as well as interest on bank deposits, bonds, tax refunds, etc. Interest also includes original issue discount on bonds and other evidences of indebtedness (see instructions on page 13). (List payers and amounts)

H- CHASE MANHATTAN

3,485.

2 Total of line 1

3 Capital gain distributions (see instructions on page 13. Enter here and on Schedule D, line 7). See note below

4 Nontaxable distributions (see instructions on page 13)

5 Total (add lines 3 and 4)

6 Dividends before exclusion (subtract line 5 from line 2). Enter here and on Form 1040, line 12a

8 Total Interest Income. Enter here and on Form 1040, line 13

3,485.

Note: If you received capital gain distributions and do not need Schedule D to report any other gains or losses or to compute the alternative tax, do not file that schedule. Instead, enter 50 percent of capital gain distributions on Form 1040, line 41.



01 230 200 03/00 0 10-00
SUPPLEMENTS TO SCHEDULE A AND B, FORM 1040

HARVEY S
NEW YORK

AND MARIA C
NY

MEYERS
10021

630A

144-28-4866

CASH CONTRIBUTIONS

THE FLEMING FUND

50.

VISITING NURSE SERVICE OF NEW YORK

25.

NEW YORK HEART ASSOCIATION UNITED FUND OF GREATER NEW YORK

255.

CANCER CARE RED CROSS AND OTHER MISCELLANEOUS ORGANIZED
CHARITIES

SUB-TOTAL

330.

BEST COPY AVAILABLE

SCHEDULE C
(Form 1040)

Profit (or Loss) From Business or Profession

(Sole Proprietorship)

621A

1972

Department of the Treasury
Internal Revenue Service

▶ Attach to Form 1040.

▶ Partnerships, joint ventures, etc., must file Form 1065.

Name(s) as shown on Form 1040

Social security number

HARVEY S & MARIA C MEYERS

144-284866

A Principal business activity STOCK BROKER
(See Schedule C Instructions)

product TRADING SERVICES
(For example: retail—hardware; wholesale—tobacco; services—legal; manufacturing—furniture; etc.)

B Business name HARVEY MEYERS

C Employer Identification Number 144-284866

D Business address (number and street) 160 E 65 ST NEW YORK, NY 10021

City, State and ZIP code

E Indicate method of accounting: (1) ☐ cash; (2) ☐ accrual; (3) ☐ other.

F Were you required to file Form 1096 for 1972? (See Schedule C Instructions) ☐ YES ☒ NO. If "Yes," where filed? ▶

G Is this business located within the boundaries of the city, town, etc., indicated? ☒ YES ☐ NO.

H Did you own this business at the end of 1972? ☒ YES ☐ NO.

I How many months in 1972 did you own this business? 12

J Was an Employer's Quarterly Federal Tax Return, Form 941, filed for this business for any quarter in 1972? ☐ YES ☒ NO.

IMPORTANT—All applicable lines and schedules must be filled in.

INCOME	1	Gross receipts or sales \$	Less returns and allowances \$	Balance ▶	<u>157,151</u>	
	2	Less: Cost of goods sold and/or operations (Schedule C-1, line 8)				
	3	Gross profit				<u>157,151</u>
	4	Other income (attach schedule)				
	5	TOTAL income (add lines 3 and 4)				<u>157,151</u>
DEDUCTIONS	6	Depreciation (explain in Schedule C-2)				
	7	Taxes on business and business property (explain in Schedule C-3)				
	8	Rent on business property				
	9	Repairs (explain in Schedule C-3)				
	10	Salaries and wages not included on line 3, Schedule C-1 (exclude any paid to yourself)				
	11	Insurance				
	12	Legal and professional fees				
	13	Commissions				
	14	Amortization (attach statement)				
	15	(a) Pension and profit-sharing plans (see Schedule C Instructions)				
		(b) Employee benefit programs (see Schedule C Instructions)				
	16	Interest on business indebtedness				
	17	Bad debts arising from sales or services				
	18	Depletion				
	19	Other business expenses (specify):				
		(a)	<u>SEE STATEMENT 2</u>	<u>37,145</u>		
		(b)				
		(c)				
		(d)				
	(e)					
	(f)					
	(g)					
	(h)					
	(i)					
	(j)					
	(k)					
	(l)					
	(m)					
	(n)					
	(o)					
	(p)	Total other business expenses (add lines 19(a) through 19(o))			<u>37,145</u>	
20	Total deductions (add lines 6 through 19)				<u>37,145</u>	
21	Net profit (or loss) (subtract line 20 from line 5). Enter here and on line 35, Form 1040. ALSO enter on Schedule SE, line 1				<u>120,006</u>	

SCHEDULE C-1. COST OF GOODS SOLD AND/OR OPERATIONS (See Schedule C Instructions for line 2)

1	Inventory at beginning of year (if different from last year's closing inventory, attach explanation)	
2	Purchases \$..... Less cost of items withdrawn for personal use \$..... Balance ▶	
3	Cost of labor (do not include salary paid to yourself)	
4	Materials and supplies	
5	Other costs (attach schedule)	
6	Total of lines 1 through 5	
7	Less: Inventory at end of year	
8	Cost of goods sold and/or operations. Enter here and on line 2, page 1.	

Method of inventory valuation ▶

Was there any substantial change in the manner of determining quantities, costs, or valuations between the opening and closing inventories? ☐ YES ☒ NO. If "Yes," attach explanation.**SCHEDULE C-2. DEPRECIATION** (See Schedule C Instructions for line 6)

Note: If depreciation is computed by using the Class Life (ADR) System for assets placed in service after December 31, 1970, or the Guideline Class Life System for assets placed in service before January 1, 1971, you must file Form 4832 (Class Life (ADR) System) or Form 5006 (Guideline Class Life System). Except as otherwise expressly provided in income tax regulations sections 1.167(a)-11(b)(5)(vi) and 1.167(a)-12, the provisions of Revenue Procedures 62-21 and 65-13 are not applicable for taxable years ending after December 31, 1970. If you need more space, use Form 4562.

Check box if you made an election this taxable year to use ☐ Class Life (ADR) System and/or ☐ Guideline Class Life System.

a. Group and guideline class or description of property	b. Date acquired	c. Cost or other basis	d. Depreciation allowed or allowable in prior years	e. Method of computing depreciation	f. Life or rate	g. Depreciation for this year
1	Total additional first-year depreciation (do not include in items below)					
2	Depreciation from Form 4832					
3	Depreciation from Form 5006					
4	Other depreciation:					
Buildings						
Furniture and fixtures						
Transportation equipment						
Machinery and other equipment						
Other (specify)						
5	Totals					
6	Less amount of depreciation claimed in Schedule C-1					
7	Balance—Enter here and on page 1, line 6					

SUMMARY OF DEPRECIATION (Other Than Additional First Year Depreciation)

	Straight line	Declining balance	Sum of the years-digits	Units of production	Other (specify)	Total
1	Depreciation from Form 4832					
2	Depreciation from Form 5006					
3	Other					

SCHEDULE C-3. EXPLANATION OF LINES 7 AND 9

Line No.	Explanation	Amount	Line No.	Explanation	Amount
		\$			\$

SCHEDULE C-4. EXPENSE ACCOUNT INFORMATION (See Schedule C Instructions for Schedule C-4)

Enter information with regard to yourself and your five highest paid employees. In determining the five highest paid employees, expense account allowances must be added to their salaries and wages. However, the information need not be submitted for any employee for whom the combined amount is less than \$10,000, or for yourself if your expense account allowance plus line 21, page 1, is less than \$10,000.

Did you have a deduction for expenses connected with:

(1) Entertainment facility (boat, resort, ranch, etc.)? ☐ YES ☒ NO (3) Employees' families at conventions or meetings? ☐ YES ☒ NO
 (2) Living accommodations (except employees on business)? ☐ YES ☒ NO (4) Employee or family vacations not reported on Form W-2? ☐ YES ☒ NO

HARVEY S AND MARIA C MEYERS
NEW YORK NY 10021

144-28-4868

DETAILS OF OTHER EXPENSES

BUSINESS EXPENSE	2,520.
OFFICE SUPPLIES AND EXPENSE	268.
TELEPHONE	1,109.
ACCOUNTING	800.
FLOOR ERRORS	1,817.
NYSE LUNCHEON FEES	1,675.
GIFTS NYSE EMPLOYEES	1,245.
TRAVEL & ENTERTAINMENT	9,815.
PROFESSIONAL PUBLICATIONS	429.
INTEREST ON NYSE SEAT	4,050.
NYSE NSE NY MERCANTILE	7,633.
AND SIPC	
SALARIES	2,375.
LEGAL FEES	2,780.
SAFE DEPOSIT BOX	30.
HOME OFFICE	599.
TOTAL OTHER BUSINESS EXPENSES	37,145.

HARVEY S
NEW YORK

AND MARIA C
NY

MEYERS
10021

144-28-4866

EXPLANATION OF EXPENSES

AUTOMOBILE EXPENSE

PERCENTAGE OF MILEAGE APPLICABLE TO BUSINESS - 50.00000

GASOLINE AND OIL
INSURANCE

605.
684.

TOTAL OPERATING AND FIXED COSTS
LESS NON-BUSINESS PORTION

1,289.
644.

PLUS PARKING FEES AND TOLLS
TOTAL.....

645.
+ 1,660.

2,305

AUTOMOBILE DEPRECIATION

DESCRIPTION OF PROPERTY	DATE ACQD.	COST OR BASIS	SALVAGE VALUE	DEP ALLOW PRIOR YRS	METH	RATE LIFE	DEPRECIATION THIS YEAR
CADILLAC SEDAN	11-01-72	7,373.		NONE	SL	3	410
TOTAL DEPRECIATION		7,373.					410
LESS NON-BUSINESS PORTION							205
							205

DEPRECIATION - OTHER THAN AUTOMOBILES

DESCRIPTION OF PROPERTY	DATE ACQD.	COST OR BASIS	SALVAGE VALUE	DEP ALLOW PRIOR YRS	METH	RATE LIFE	DEPRECIATION THIS YEAR
TYPEWRITER	01-01-72	80.		NONE	SL	8	10
TOTAL DEPRECIATION		80.					10

TOTAL EXPENSES

2,520

Computation of Social Security Self-Employment Tax:

625A

1972

- Each self-employed person must file a Schedule SE.
- Attach to Form 1040.

➤ If you had wages, including tips, of \$9,000 or more that were subject to social security taxes, do not fill in this page.
➤ If you had more than one business, combine profits and losses from all your businesses and farms on this Schedule SE.

Important.—The self-employment income reported below will be credited to your social security record and used in figuring social security benefits.

NAME OF SELF-EMPLOYED PERSON (AS SHOWN ON SOCIAL SECURITY CARD)

Social security number
of self-employed person

HARVEY S. & MARIA C. MEYERS

144-28-4866

Business activities subject to self-employment tax (grocery store, restaurant, farm, etc.) F-

Computation of Net Earnings from BUSINESS Self-Employment (other than farming)

1 Net profit (or loss) shown in Schedule C (Form 1040), line 21. (Enter combined amount if more than one business.)	120,006
2 Net income (or loss) from excluded services or sources included on line 1. Specify excluded services or sources:	
3 Net earnings (or loss) from business self-employment (Subtract line 2 from line 1, and enter here and on line 8(a), below.)	120,006

Computation of Net Earnings from FARM Self-Employment

A farmer may elect to compute net farm earnings using the **OPTIONAL METHOD** (line 6, below) **INSTEAD OF THE REGULAR METHOD** (line 5, below) if his gross profits are: (1) \$2,400 or less, or (2) more than \$2,400 and net profits are less than \$1,600. If your gross profits from farming are not more than \$2,400 and you elect to use the optional method, you need not complete lines 4 and 5.

Computation under Regular Method	
4 Net farm profit (or loss) from:	
(a) Schedule F, line 54 (cash method), or line 74 (accrual method)	
(b) Farm partnerships	
5 Net earnings from self-employment from farming. Add lines 4(a) and (b).	
Computation under Optional Method	
6 If gross profits from farming are:	
(a) Not more than \$2,400, enter two-thirds of the gross profits	
(b) More than \$2,400 and the net farm profit is less than \$1,600, enter \$1,600	
*Note.—Gross profits from farming are the total of the gross profits from Schedule F, line 28 (cash method), or line 72 (accrual method), plus the distributive share of gross profit from farm partnerships as explained in instructions for Schedule SE.	
7 Enter here and on line 8(b), below, the amount on line 5 (or line 6, if you use the optional method)	

Computation of Social Security Self-Employment Tax

8 Net earnings (or loss) from self-employment—	
(a) From business (other than farming) from line 3, above	120,006
(b) From farming (from line 7, above)	
(c) From partnerships, joint ventures, etc. (other than farming)	
(d) From service as a minister, member of a religious order, or a Christian Science practitioner. If you filed Form 4361, check here ☐ and enter zero on this line	
(e) From service with a foreign government or international organization	
(f) Other (director's fees, etc.). Specify	
9 Total net earnings (or loss) from self-employment reported on line 8. (If line 9 is less than \$400, you are not subject to self-employment tax. Do not fill in rest of page.)	120,006
10 The largest amount of combined wages and self-employment earnings subject to social security tax for 1972 is	\$9,000 00
11 (a) Total "FICA" wages as indicated on Form W-2	
(b) Unreported tips, if any, subject to FICA tax from Form 4137, line 9	-0-
(c) Total of lines 11(a) and 11(b)	9,000
12 Balance (subtract line 11(c) from line 10)	9,000
13 Self-employment income—line 9 or 12, whichever is smaller	675
14 If line 13 is \$9,000, enter \$675.00; if less, multiply the amount on line 13 by .075	
15 Railroad employee's and railroad employee representative's adjustment for hospital insurance benefits tax from Form 4469	
16 Self-employment tax (subtract line 15 from line 14). Enter here and on Form 1040, line 62	675

Department of the Treasury
Internal Revenue Service

(From pensions and annuities, rents and royalties, partnerships, estates and trusts, etc.)
 Attach to Form 1040.

1972

HARVEY S

AND MARIA C

MEYERS

144-28-4866

Pension and Annuity Income. If fully taxable, do not complete this part. Enter amount on Form 1040, line 40.

1. Name of payer

2 Did your employer contribute part of the cost?

Yes

No

If "Yes," is your contribution recoverable within 3 years of the annuity starting date?

Yes

No

If "Yes," show: Your contribution

Your contribution recovered in prior years

Amount received this year

Amount excludable this year

5 Taxable portion (subtract line 4 from line 3)

Part I **Rent and Royalty Income.** Report rents and royalties here. If you need more space, you may use Form 4831.

(a) Kind and location of property If residential, also write "R"	(b) Total amount of rents	(c) Total amount of royalties	(d) Depreciation (explain below) or depletion (attach computation)	(e) Other expenses (Repairs, etc.— explain below)
Totals				

	1960	1961	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	2055	2056	2057	2058	2059	2060	2061	2062	2063	2064	2065	2066	2067	2068	2069	2070	2071	2072	2073	2074	2075	2076	2077	2078	2079	2080	2081	2082	2083	2084	2085	2086	2087	2088	2089	2090	2091	2092	2093	2094	2095	2096	2097	2098	2099	2100	2101	2102	2103	2104	2105	2106	2107	2108	2109	2110	2111	2112	2113	2114	2115	2116	2117	2118	2119	2120	2121	2122	2123	2124	2125	2126	2127	2128	2129	2130	2131	2132	2133	2134	2135	2136	2137	2138	2139	2140	2141	2142	2143	2144	2145	2146	2147	2148	2149	2150	2151	2152	2153	2154	2155	2156	2157	2158	2159	2160	2161	2162	2163	2164	2165	2166	2167	2168	2169	2170	2171	2172	2173	2174	2175	2176	2177	2178	2179	2180	2181	2182	2183	2184	2185	2186	2187	2188	2189	2190	2191	2192	2193	2194	2195	2196	2197	2198	2199	2200	2201	2202	2203	2204	2205	2206	2207	2208	2209	2210	2211	2212	2213	2214	2215	2216	2217	2218	2219	2220	2221	2222	2223	2224	2225	2226	2227	2228	2229	2230	2231	2232	2233	2234	2235	2236	2237	2238	2239	2240	2241	2242	2243	2244	2245	2246	2247	2248	2249	2250	2251	2252	2253	2254	2255	2256	2257	2258	2259	2260	2261	2262	2263	2264	2265	2266	2267	2268	2269	2270	2271	2272	2273	2274	2275	2276	2277	2278	2279	2280	2281	2282	2283	2284	2285	2286	2287	2288	2289	2290	2291	2292	2293	2294	2295	2296	2297	2298	2299	2300	2301	2302	2303	2304	2305	2306	2307	2308	2309	2310	2311	2312	2313	2314	2315	2316	2317	2318	2319	2320	2321	2322	2323	2324	2325	2326	2327	2328	2329	2330	2331	2332	2333	2334	2335	2336	2337	2338	2339	2340	2341	2342	2343	2344	2345	2346	2347	2348	2349	2350	2351	2352	2353	2354	2355	2356	2357	2358	2359	2360	2361	2362	2363	2364	2365	2366	2367	2368	2369	2370	2371	2372	2373	2374	2375	2376	2377	2378	2379	2380	2381	2382	2383	2384	2385	2386	2387	2388	2389	2390	2391	2392	2393	2394	2395	2396	2397	2398	2399	2400	2401	2402	2403	2404	2405	2406	2407	2408	2409	2410	2411	2412	2
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Net income (or loss) from rents and royalties (column (b) plus column (c) less columns (d) and (e))

Income or Losses from Partnerships, Estates or Trusts, Small Business Corporations.

(a) Name and address	(c) Employer Identification number	(d) Income or loss	(e) SEC. 179 DEPRECIATION
S KAUFMAN 25TH STREET LOFT COMPANY	13-1941250	288.	
S NEW YORK, N Y			
Totals		288.	

Totals

288

Income (or loss) Total of column (d) less total of column (e).

258.

TOTAL OF PARTS I, II, AND III (Enter here and on Form 1040, line 38)

288

Explanation of Column (e), Part II

[illegible]

Schedule for Depreciation Claimed in Part II Above.

Check box if you made an election this taxable year to use ☐ Class Life (ADR) System and/or ☐ Guideline Class Life System.

(a) Group and guideline class or description of property	(b) Date acquired	(c) Cost or other basis	(d) Depreciation allowed or allowable in prior years	(e) Method of computing depreciation	(f) Life or rate	(g) Depreciation for this year
Total additional first-year depreciation (do not include in items below) →						
Depreciation from Form 4832						
Depreciation from Form 5006						
Totals						

[illegible]

Depreciation (Other than Additional First Year Depreciation)						
	Straight line	Declining balance	Sum of the years-digits	Units of production	Other (specify)	Total
Depreciation from Form 4532						
Depreciation from Form 5006						
Other						

Maximum Tax on Earned Income **627A** - 1972

▶ Attach to Form 1040 (or Form 1041).

Name(s) as shown on Form 1040 (or Form 1041)

HARVEY S & MARIA C. MEYERS

Identifying number

144 28 4866

Do not complete this form if— (a) Earned taxable income is:
\$38,000 or less, and you checked line 1 or line 4, Form 1040,
\$52,000 or less, and you checked line 2 or line 5, Form 1040,
\$26,000 or less, and this is an Estate or Trust return (Form 1041);
(b) You elected income averaging; or
(c) You checked line 3, Form 1040.

1	Earned income (see instructions)	1	120 000
2	Deductions (see instructions)	2	
3	Earned net income. Subtract line 2 from line 1	3	120 000
4	Enter your adjusted gross income	4	120 777
5	Divide the amount on line 3 by the amount on line 4. Enter percentage result here, but not more than 100%	5	100.65
6	Enter your taxable income	6	107 286
7	Multiply the amount on line 6 by the percentage on line 5	7	105 448
8	a. Enter the larger of either (1) the total of your 1972 items of tax preference or (2) one-third of the total of your tax preference items for 1970, 1971, 1972.	8a	
	b. Less	8b	\$30,000
	c. Subtract line 8b from line 8a	8c	
9	Earned taxable income. Subtract line 8c from line 7 (see instructions)	9	105 228
10	If: you checked line 1 or line 4, Form 1040, enter \$38,000 you checked line 2 or 5, Form 1040, enter \$52,000 Estate or Trust, enter \$26,000	10	54 000
11	Subtract line 10 from line 9 (if zero or less, do not complete rest of form)	11	50 948
12	Enter 50% of line 11	12	25 474
13	Tax on amount on line 6 (use Tax Rate Schedule in Form 1040 (or Form 1041) Instructions)	13	50 937
14	Tax on amount on line 9 (use Tax Rate Schedule in Form 1040 (or Form 1041) Instructions)	14	48868
15	Subtract line 14 from line 13	15	2069
16	If the amount on line 10 is: \$38,000, enter \$13,290 (\$12,240 if unmarried head of household) \$52,000, enter \$18,060 \$26,000, enter \$9,030	16	12 060
17	Add lines 12, 15, and 16. This is your maximum tax. Enter here and on line 16, Form 1040 (or line 24, Form 1041); however, if you had net long-term capital gain in excess of net short-term capital loss, complete Computation of Alternative Tax below	17	47103
Computation of Alternative Tax		18	
18	Amount from line 6	19	
19	Amount from Schedule D (Form 1040), line 15(a) (or line 20, page 1, Form 1041)	20	
20	Subtract line 19 from line 18	21	
21	Enter smaller of amount on Sch. D (Form 1040), line 13 or 14 (or enter amount from Sch. D (Form 1041), line 17(e)). If line 21 does not exceed \$50,000, check here ☐ and omit lines 22 through 28.	22	
22	Enter long-term gains from certain binding contracts and installment sales (referred to as "certain subsection d gains"—see Sch. D (Form 1040) or Sch. D (Form 1041) instructions)	23	
23	Amount from line 22 or \$50,000, whichever is larger. If line 23 is equal to or greater than line 21, check here ☐ and omit lines 24 through 28.	24	
24	Enter 50% of line 23	25	
25	Add lines 20 and 24	26	
26	Enter amount from line 13	27	
27	Tax on amount on line 25 (use Tax Rate Schedule in Form 1040 (or 1041) Instructions)	28	
28	Subtract line 27 from line 26	29	
29	Tax on amount on line 20 (use Tax Rate Schedule in Form 1040 (or 1041) Instructions). Caution: If line 9 is more than line 20, enter instead amount on line 14 less 50% of excess of line 9 over line 20	30	
30	Subtract line 29 from line 13	31	
31	Subtract line 30 from line 17	32	
32	If the block on line 21 or 23 is checked, enter 50% of line 19; otherwise, enter 25% of line 23	33	
33	Alternative tax, add lines 28 (if applicable), 31, and 32	34	
34	Enter here and on line 16, Form 1040 (or line 24 or 25, whichever is applicable, Form 1041), the amount on line 17 or line 33, whichever is smaller		

United States of America vs.

628A

United States District Court for
Southern District of New York

Harvey S. Rogers

DEFENDANT

DOCKET NO.

77 Cr. 277 (CD)

JUDGMENT AND PROBATIONARY COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH

DAY

YEAR

6

17

77

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Rafaela V. Colles

(Name of counsel)

PLEA

☐ GUILTY, and the court being satisfied that
there is a factual basis for the plea,☐ NOLO CONTENDERE,☒ NOT GUILTY

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged☒ GUILTY.FINDING &
JUDGMENTDefendant has been convicted as charged of the offense(s) of
Code, 97201.)

Income tax evasion. (Title 18, U.S.C.)

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: The defendant is hereby committed to the custody of the Attorney General or his authorized representative for imprisonment for a period of

TWO (2) YEARS on each of counts 1 and 2, to run concurrently with
each other.

and

Defendant is FINED \$5,000.00 on count 1.

Defendant is continued on his own recognizance pending appeal.

SPECIAL
CONDITIONS
OF
PROBATIONADDITIONAL
CONDITIONS
OF
PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out in every issue of the Federal Rules of Criminal Procedure. The court may change the conditions of probation, reduce or extend the period of probation, and may issue a warrant or arrest during the probation period at any time. The probation period of five years permitted by law, may issue a warrant and arrest probation for a violation occurring during the probation period.

COMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver
a certified copy of this judgment
and commitment to the U.S. Mar-
shal or other qualified officer.

SIGNED BY

☐ U.S. District Judge☒☐ U.S. Magistrate

Date

6-17-77

CERTIFIED AS A TRUE COPY

THIS DATE

By

A JUDGMENT

629A

UNITED STATES DISTRICT COURT

UNITED STATES

Docket Number

77 CR 227

v.

CHARLES BRIANT JR.
(District Court Judge)

HARVEY S. MEYERS

NOTICE OF APPEAL

Notice is hereby given that HARVEY S. MEYERS appeals 6
 the United States Court of Appeals for the Second Circuit from the ☒ Judgment ☐ Order ☐ other ☐
 (specify) _____ entered in this action on MAY 5 1977
 (Date)

Date 22 JUNE 1977
 To:

Address

KALMAN V. GALLOP
 (Counsel for Appellant)
136 E. 57th ST.
N.Y., N.Y., 10022

Phone Number

758-7575

ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

QUESTIONNAIRE

- ☒ I am ordering a transcript
☐ I am not ordering a transcript
 Reason:
☐ Daily copy is available
☐ U.S. Attorney has placed order
☐ Other. Attach explanation

TRANSCRIPT ORDER

- Prepare transcript of
☐ Pre-trial proceedings
☒ Trial
☒ Sentence
☐ Post-trial proceedings

☒ DESCRIPTION OF PROCEEDINGS
 FOR WHICH TRANSCRIPT IS
 REQUIRED (INCLUDE DATE)

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) ☒ Method of payment ☒ Funds ☐ CJA Form 21

ATTORNEY'S signature

Kalman V. GallopDATE JUNE 22 '77

COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number of pages.

Date

Signature

(Court Reporter)

BEST COPY AVAILABLE

ORIGINAL

